

MINNEAPOLIS CITY COUNCIL OFFICIAL PROCEEDINGS

REGULAR MEETING OF AUGUST 5, 2011

(Published August 13, 2011, in *Finance and Commerce*)

Council Chamber

Room 317 City Hall

350 South 5th Street

Minneapolis, Minnesota

August 5, 2011 - 9:30 a.m.

Council President Johnson in the Chair.

Present - Council Members Tuthill, Quincy, Glidden, Goodman, Hodges, Samuels, Gordon, Reich, Hofstede, Schiff, Lilligren, President Johnson.

Absent - Council Member Colvin Roy.

Lilligren moved adoption of the agenda. Seconded.

Adopted upon a voice vote 8/5/2011.

Absent - Colvin Roy.

Lilligren moved acceptance of the minutes of the regular meeting of July 22, 2011. Seconded.

Adopted upon a voice vote 8/5/2011.

Absent - Colvin Roy.

Lilligren moved referral of petitions and communications and reports of the City officers to the proper Council committees and departments. Seconded.

Adopted upon a voice vote 8/5/2011.

Absent - Colvin Roy.

PETITIONS AND COMMUNICATIONS

COMMITTEE OF THE WHOLE:

INTERGOVERNMENTAL RELATIONS (275087)

State and Local IGR Update - North Minneapolis Tornado recovery assistance info.

COMMUNITY DEVELOPMENT (See Rep):

COMMUNITY PLANNING & ECONOMIC DEVELOPMENT (275088)

Bryant Lofts LLC (2813 Bryant Ave): Assignment & assumption of Bryant Lofts LLC to Bryant Apartments LLC.

City Place Lofts (730 Hennepin Ave): Final approval to issue bonds.

COMMUNITY DEVELOPMENT and WAYS & MEANS/BUDGET (See Rep):

COMMUNITY PLANNING & ECONOMIC DEVELOPMENT (275089)

Metropolitan Council Tax Base Revitalization Account Investigation Grant Program: Applications for Cameron Building & Pillsbury Lofts projects.

PURCHASING (275090)

Bid for Demolition of Properties (OP #7464): 3118 Irving Ave N, 3210 Vincent Ave N, 619 26th Ave N, 1235 Monroe St NE, 2700 Sheridan Ave N, 305 30 Ave N.

PUBLIC SAFETY, CIVIL RIGHTS & HEALTH:

REGULATORY SERVICES (275091)

Emergency Preparedness: Report on North Minneapolis tornado response.

PUBLIC SAFETY, CIVIL RIGHTS & HEALTH (See Rep):

CIVIL RIGHTS (275092)

Gender Identity: Ordinances amending the definition of "sexual orientation" and adding a protected class definition of gender identity or expression; and substituting the protected class of affectional preference with the protected classes of sexual orientation and gender identity.

HEALTH AND FAMILY SUPPORT (275093)

Minneapolis Advisory Committee on People with Disabilities: Approve appointments of Matthew Schuelka, Ward 6; and Donna Hemp, Ward 3.

Public Health Advisory Committee: Approve appointments of Abdullahi Sheikh, Ward 8; and Jonathan Hanft, Ward 9.

PUBLIC SAFETY, CIVIL RIGHTS & HEALTH and WAYS & MEANS/BUDGET (See Rep):

HEALTH AND FAMILY SUPPORT (275094)

Minneapolis RECOVERS - Behavioral Health Recovery Services: Execute contract with Hennepin Council to accept \$200,000 for the provision of mental health services for those affected by the May tornado; and Approve appropriation.

License Fees for Use of "Multicultural Storytelling: A New Process for Community Engagement Toolkit": Request to accept estimated revenue of \$3,000 for end-use license agreements; and Approve appropriation.

Capital Improvements at School Based Clinics: Accept \$135,680 from the United States Department of Human Services, Health Resources and Services Administration for clinical equipment and furnishings; and Approve appropriation.

School Based Clinic Mental Health Services: Execute amendment #2 to Contract with Hennepin County to accept an additional \$60,000 for services to Latino students and families at Roosevelt High School; and Passage of Resolution approving appropriation.

POLICE DEPARTMENT (275095)

Grant Program to Encourage Arrest Policies: Execute contract with University of St. Thomas to provide conference facilities for Police Department's presentation of the Minneapolis Coordinated Community Response to Domestic Violence.

Police and Community Chaplaincy Services Contract: Request to extend contract with the Minneapolis Police Chaplain Corps for a two-year period to provide services to Department staff and to families and the community following crimes of violence.

REGULATORY, ENERGY AND ENVIRONMENT (See Rep):

LICENSES AND CONSUMER SERVICES (275096)

A Slice of New York (2407 Nicollet Av): Approve License Settlement Conference recommendations relating to Food Manufacturer License.

Ken and Norms Liquor (4801 Chicago Av): Approve License Settlement Conference recommendations relating to Off-Sale Liquor License.

Plan B Coffeehouse (2717 Hennepin Av): Approve License Settlement Conference recommendations relating to Restaurant License.

LICENSES AND CONSUMER SERVICES (275097)

Cupcake (3338 University Av SE): Grant On-Sale Wine Class D with Strong Beer License, subject to conditions.

Republic (221 Cedar Av S): Grant On-Sale Liquor Class C-2 with Sunday Sales License.

Brave New Workshop (824 Hennepin Av): Grant On-Sale Liquor Class A with Sunday Sales License.

Envy Nightclub (400 1st Av N): Grant On-Sale Liquor Class A with Sunday Sales License, subject to conditions.

LICENSES AND CONSUMER SERVICES (275098)

Infinity Smokes (814 Hennepin Av): Approve Business License Operating Conditions relating to Confectionery License.

Pizza Town (1600 W Broadway): Approve Business License Operating Conditions relating to Food Manufacturer License.

Vivint Inc (4931 N 300 West, Provo, Utah): Approve Business License Operating Conditions relating to Solicitor - Company License.

LICENSES AND CONSUMER SERVICES (275099)

Licenses: Applications.

REGULATORY SERVICES (275100)

Housing Code: Ordinance incorporating Minnesota Rule 4625 to provide clarity to the City's authority under its delegation agreement with the Minnesota Department of Health.

Food Code: Ordinances updating the Code to be consistent with Minnesota Rule 4626, Minnesota Statute 157, and the City's authority under its delegation agreement with the Minnesota Department of Health.

REGULATORY, ENERGY AND ENVIRONMENT and WAYS & MEANS/BUDGET (See Rep):

FINANCE DEPARTMENT (275101)

Bids for Photovoltaic Systems at City Facilities: OP #7448, accept low responsive bid of Able Energy Corporation to complete installation of system at Currie Maintenance Facility; and OP #7449, accept low bid of Able Energy Corporation to complete installation of system at Royalston Maintenance Facility.

TRANSPORTATION AND PUBLIC WORKS:

PUBLIC WORKS AND ENGINEERING (275102)

State Budget: Impact on Department of Public Works.

TRANSPORTATION AND PUBLIC WORKS (See Rep):

PUBLIC WORKS AND ENGINEERING (275103)

33rd Ave SE Street Reconstruction: a) Authorization to acquire easements and right-of-way; and b) Variance request from Minnesota State Aid Rules.

Special Assessment Deferment: 116 59th St W.

The Interchange Project: Accept invitation to become agency partner.

Large Block Event: Approve application for Uptown Art Fair.

Van White Memorial Bridge: Project cost estimate and authorization to bid.

TRANSPORTATION AND PUBLIC WORKS and WAYS & MEANS/BUDGET (See Rep):

PUBLIC WORKS AND ENGINEERING (275104)

Citation Writing Technology: Contract with Duncan Parking Technologies, Inc.

Bike Walk Ambassador Program: a) Contract amendment; and b) Increase appropriation.

OP 7465: Low Responsive Bid of ABM Equipment and Supply, LLC, for MSW Refuse Packer Bodies.

WAYS AND MEANS BUDGET (See Rep):

ATTORNEY (275105)

Legal Settlement: Auto-Owners Insurance Company v. City of Minneapolis.

COMMUNICATIONS (275106)

September 2011 Utility Billing Insert: Home Energy Efficiency Program.

COMMUNITY PLANNING & ECONOMIC DEVELOPMENT (275107)

Public Artists: Issue RFP for Nicollet Avenue Reconstruction; and execute contract for selected artist.

FINANCE DEPARTMENT (275108)

Debt Collection Services: Execute three (3) year contracts with I.C. System, Inc. and Harris & Harris, LTD.

INTERGOVERNMENTAL RELATIONS (275109)

Minneapolis RECOVERS: Resolution requesting property tax relief for damaged/destroyed property under Minnesota Statutes.

ZONING AND PLANNING (See Rep):

PLANNING COMMISSION/DEPARTMENT (275110)

Appeal:

Property known as 401 Oak Grove Street, Applicants: 430 Oak Grove, LLC, & Continental Property Group (401, 409, 403, 343 Oak Grove St and 416 Clifton Ave)

PLANNING COMMISSION/DEPARTMENT (275111)

Appeals:

Holiday Stationstore #69, 2322 Washington Ave N

Holiday Stationstore #209, 2448 Hennepin Ave

PLANNING COMMISSION/DEPARTMENT (275112)

Vacation:

Jim Koontz (2840 & 2900 Chowen Ave S)

Rezoning:

Macedonia Baptist Church (3801, 3809, 3813 1st Ave S)

MOTIONS (See Rep):

COUNCIL MEMBER GLIDDEN (275113)

Closed Pensions: Mpls Firefighters' Relief Association Term Sheet & Points of Agreement. (See City Council Adjourned Session).

FILED:

400 WYMAN, LLC (275114)

Vacate alley on 1st Avenue North and 2nd Avenue North between 4th Street North and 5th Street North.

CHARTER COMMISSION (275115)

Communications Subcommittee: Committee report, July 26, 2011.

CITY CLERK (275116)

Tobacco Sampling: Transcript of a portion of the Regulatory, Energy & Environment Committee, held June 20, 2011 relating to an ordinance prohibiting indoor smoking of tobacco samples in exclusive tobacco shops.

*The following reports were signed by Mayor Rybak on August 9, 2011, **unless noted otherwise.** Minnesota Statutes, Section 331A.01, Subd 10, allows for summary publication of ordinances and resolutions in the official newspaper of the city.*

REPORTS OF STANDING COMMITTEES

The COMMUNITY DEVELOPMENT Committee submitted the following reports:

Comm Dev - Your Committee, having under consideration the final phase of the Urban Village Housing Development project, now recommends approval to assign Property Development Rights from Bryant Lofts, LLC for land at 2813 Bryant Ave S, to Bryant Apartments, LLC, for construction of 198 units of market rate rental housing, and that the proper City officers be authorized to execute the necessary documents.

Adopted 8/5/2011.

Absent - Colvin Roy.

Comm Dev - Your Committee, having under consideration the City Place Lofts Project, a proposed 45-unit rental housing facility at 730 Hennepin Ave, now recommends passage of the accompanying resolution giving final approval to the issuance of up to \$5,500,000 of Tax Exempt Multifamily Housing Revenue Entitlement Bonds for said project.

Adopted 8/5/2011.

Absent - Colvin Roy.

Resolution 2011R-390, authorizing the issuance of bonds in a principal amount not to exceed \$5,500,000, in the form of Multifamily Housing Revenue Bonds for the City Place Lofts Project (730 Hennepin Ave), Series 2011, and approving and authorizing the execution of various documents in connection therewith, was adopted 8/5/2011 by the City Council. A complete copy of this resolution is available for public inspection in the office of the City Clerk.

The following is the complete text of the unpublished summarized resolution.

RESOLUTION 2011R-390

By Goodman

Authorizing the issuance of bonds in a principal amount not to exceed \$5,500,000, in the form of Multifamily Housing Revenue Bonds (City Place Lofts Project), Series 2011, and approving and authorizing the execution of various documents in connection therewith.

Whereas, pursuant to the Minnesota Municipal Housing Act, Minnesota Statutes, Chapter 462C, as amended (the "Act"), a city is authorized to carry out programs for the financing of multifamily housing for persons of low and moderate income, and to authorize its housing and redevelopment authority to act on its behalf; and

Whereas, the City Council (the "City Council") of the City of Minneapolis (the "City") has prepared the Housing Plan for Local Housing for the City of Minneapolis, Minnesota, revised June, 1984 (the "Plan") which plan was adopted pursuant to the Act on July 13, 1984; and

Whereas, the Act requires adoption of a housing finance program after a public hearing held thereon for which notice was published in a newspaper of general circulation in the City at least fifteen (15) days in advance of the hearing; and

Whereas, there has been proposed a program (the "Program") for the issuance of bonds to finance the acquisition and rehabilitation by City Place Housing Limited Partnership, a Minnesota limited partnership (the "Developer"), of a 45-unit multifamily rental housing development located at 730 Hennepin Avenue in the City (the "Project"); and

Whereas, the City on June 21, 2011 did conduct a public hearing on the Program; and

Whereas, by Resolution 2011R-332 adopted July 1, 2011, and published on July 9 2011, the City gave its preliminary approval to the issuance of the bonds to finance the Program; and

Whereas, the City desires to facilitate the development of rental housing within the community, encourage the preservation of affordable housing opportunities for residents of the City, encourage the preservation of housing facilities designed for occupancy by persons of low or moderate income within the boundaries of the City, and the maintenance of affordable units in the Project would assist the City in achieving these objectives; and

Whereas, the Program will result in the provision of decent, safe and sanitary rental housing opportunities to persons within the community; and

Whereas, this City Council has been advised that conventional, commercial financing to pay the capital costs of the Program is available only on a limited basis and at such high costs of borrowing that the economic feasibility of operating the Project would be significantly reduced, but the City Council has been further advised that with the aid of municipal financing and resulting low borrowing costs, the Project is economically more feasible; and

Whereas, the staff of the City considers the proposed Program to be in furtherance of the housing policies of the State of Minnesota as stated in the Act and of the City as stated in the Plan; and

Whereas, the program is to be financed from the proceeds of bonds, in an aggregate amount not to exceed \$5,500,000, in the form of Multifamily Housing Revenue Bonds (City Place Lofts Project), Series 2011 (the "Bonds"), to be issued by the City, and the revenues from the Project (as defined below) shall be pledged for the security and payment of the Bonds (except as may otherwise be set forth in the Indenture hereinafter referred to); and

Whereas, the Bond proceeds will be used by the City to fund a loan (the "Loan") to the Developer to finance the acquisition and rehabilitation of the Project; and

Whereas, the Bonds will be issued under a Trust Indenture, dated as of August 1, 2011 (the "Indenture"), and the proceeds of the Bonds will be loaned to the Developer pursuant to a Loan Agreement, dated as of August 1, 2011 (the "Loan Agreement"), between the City and the Developer, and the Bonds will be secured by a pledge of all rights derived by the Developer from the Loan Agreement (except certain retained rights of the City), and said Bonds and the interest on said Bonds shall be payable solely from the revenues pledged therefor and the Bonds shall not constitute a debt of the City within the meaning of any constitutional or statutory limitation nor give rise to a pecuniary liability of the City or a charge against its general credit or assets and shall not constitute a charge, lien, or encumbrance, legal or equitable, upon any property of the City other than the City's interest in the Project; and

Whereas, forms of the following documents (including the exhibits referred to therein) have been submitted to the City:

a) The Indenture to be made and entered into between the City and the trustee named therein (the "Trustee"), providing for the issuance of the Bonds, prescribing the form thereof, pledging the trust estate described therein for the security of the Bonds, and setting forth proposed recitals, covenants and agreements with respect thereto;

b) The Loan Agreement to be made and entered into between the City and the Developer, providing for the loan of the proceeds of the Bonds to the Developer, and for the repayment of such loan;

c) The Tax Compliance Agreement between the City, the Trustee and the Developer (the "Tax Compliance Agreement");

d) The Land Use Restriction Agreement between the City, the Trustee and the Developer (the "Land Use Restriction Agreement");

e) The Bond Purchase Agreement relating to the Bonds between Piper Jaffray & Co. (the "Underwriter"), the City and the Developer (the "Bond Purchase Agreement"); and

f) The Assignment of Mortgage, Security Agreement, Fixture Financing Statement and Assignment of Leases and Rents, from the City to the Trustee (the "Assignment of Mortgage").

The agreements described and referred to in paragraphs a through f above shall hereinafter sometimes be referred to collectively as the "Agreements";

Now, Therefore, Be It Resolved by The City Council of The City of Minneapolis:

That it is hereby found, determined and declared that:

a. The preservation of the quality of life in the City is dependent upon the maintenance, provision and preservation of an adequate housing stock which is affordable to persons and families of low or moderate income, that accomplishing this is a public purpose, and that many would-be providers of housing units in the City are either unable to afford mortgage credit at present market rates of interest or are unable to obtain mortgage credit because the mortgage credit market is severely restricted.

b. The development and implementation of the Program, and the issuance and sale of the Bonds by the City, and the execution and delivery of the Agreements and the performance of all covenants and agreements of the City contained therein and of all other acts and things required under the

Constitution and Laws of the State of Minnesota to make the Agreements and the Bonds valid and binding obligations of the City in accordance with their terms, are authorized by the Act.

c. The implementation of the Program for the purposes and in the manner contemplated by the Agreements conforms or will conform to all pertinent statutes, regulations and ordinances of the State of Minnesota and the City.

d. It is desirable that the Bonds be issued by the City in one or more series, in an aggregate principal amount not to exceed \$5,500,000, on the terms set forth in the Resolution, the Indenture, the Loan Agreement, the Land Use Restriction Agreement and the Bonds.

e. The payments required or provided for by the Agreements are intended to produce income and revenues sufficient to provide for the payment when due of principal of and interest on all Bonds issued under the Resolution, and payments are required to be made for such expenses of, among other things, administration of the Program as will be necessary to protect the interests of the City and the Trustee.

f. Pursuant to the provisions of the Act, and as provided in the Agreements, the Bonds shall be retired solely from the revenues of the Project.

Be It Further Resolved that the Agreements in substantially the forms submitted to the City at this meeting are hereby approved. Such of the documents as require the execution of the City are hereby authorized and directed to be executed or accepted, as the case may be, and delivered in the name and on behalf of the City by its Finance Officer upon execution thereof by the parties thereto as appropriate. The Bonds and the Agreements shall be executed and delivered as provided therein. Copies of all the documents necessary for the consummation of the transactions described herein and in the Agreements shall be delivered, filed and recorded as provided herein and in the Agreements.

Be It Further Resolved that the form and terms of the Agreements may be varied prior to execution and delivery by the parties thereto, provided that any such variance shall not be, in the opinion of the City's legal counsel and the Finance Officer, materially adverse to the interests of the City. The execution and delivery of the Agreements as provided above shall be conclusive evidence of the determination that any such variance was not materially adverse to the interests of the City.

Be It Further Resolved that in anticipation of the collection of revenues of the Project, there shall be issued forthwith the Bonds, which issuance is approved, substantially in the forms and upon the terms set forth in the Agreements and the Bonds, the terms of which are for this purpose incorporated in this Resolution and made a part hereof as if fully set forth herein. The Bonds shall be dated as of the date and shall mature on the dates (subject to redemption on such earlier dates as provided in the Bonds), bear interest and be payable at the rates, all determined as set forth in the Agreements and the Bonds, to be approved, executed and delivered by the officers of the City authorized to do so by the provisions of this Resolution, which approval shall be conclusively evidenced by such execution and delivery; provided that such rates shall result in an average coupon rate not greater than 6.50% per annum with respect to the Bonds.

Be It Further Resolved that all actions of the members, employees and staff of the City heretofore taken in furtherance of the Program are hereby approved, ratified and confirmed.

Be It Further Resolved that the Bonds are hereby designated "Program Bonds" and are determined to be within the "Housing Program" and the "Program," all as defined in Resolution 88R-021 of the City adopted January 29, 1988, and as amended by Resolution 97R-402 of the City adopted December 12, 1997.

Be It Further Resolved that the sale of said Bonds to the Underwriter is hereby approved, and the Bonds are hereby directed to be sold to the Underwriter, upon the terms and conditions set forth in the Agreements and the Bonds. The Finance Officer of the City is hereby authorized and directed to prepare and execute by manual or facsimile signature the Bonds as described in the Agreements and to deliver them to the Trustee together with a certified copy of this Resolution, and the other documents required by the Agreements.

Be It Further Resolved that the Finance Officer and other officers of the City are authorized and directed to prepare and furnish when the Bonds are issued, certified copies of all proceedings and records of the City relating to the Bonds and such other affidavits and certificates (including but not limited to those required by bond counsel) as may be required to show the facts relating to the legality, tax exemption and marketability of the Bonds as such facts appear from the books and records in said officers' custody and control or as otherwise known to them; and all such certified copies, certificates

and affidavits, including any heretofore furnished, shall constitute representations of the City as to the truth of all statements made by the City and contained therein. The Finance Officer and said officers are further authorized to execute such additional documents as shall be determined by the Finance Officer to be necessary and desirable to provide for the issuance of the Bonds.

Be It Further Resolved that all covenants, stipulations, obligations and agreements of the City contained in this Resolution and the aforementioned documents shall be deemed to be the covenants, stipulations, obligations and agreements of the City to the full extent authorized or permitted by law, and all such covenants, stipulations, obligations and agreements shall be binding upon the City. Except as otherwise provided in this Resolution, all rights, powers and privileges conferred and duties and liabilities imposed upon the City by the provisions of this Resolution or of the aforementioned documents shall be exercised or performed by the City or by such members of the City, or such officers, board, body or agency thereof as may be required or authorized by law to exercise such powers and to perform such duties.

No covenant, stipulation, obligation or agreement herein contained or contained in the aforementioned documents shall be deemed to be a covenant, stipulation, obligation or agreement of any member of the City, or any officer, agent or employee of the City in that person's individual capacity, and neither the City Council nor any officer or employee executing the Bonds shall be liable personally on the Bonds or be subject to any personal liability or accountability by reason of the issuance thereof.

No provision, covenant or agreement contained in the aforementioned documents, the Bonds or in any other document related to the Bonds, and no obligation therein or herein imposed upon the City or the breach thereof, shall constitute or give rise to any pecuniary liability of the City or any charge upon its general credit or taxing powers. In making the agreements, provisions, covenants and representations set forth in such documents, the City has not obligated itself to pay or remit any funds or revenues, other than funds and revenues derived from the Project, the proceeds of the Bonds which are to be applied to the payment of the Bonds, as provided therein and in the Agreements. The Bonds shall not constitute a charge, lien or encumbrance, legal or equitable, upon any property or funds of the City except the revenue and proceeds pledged to the payment thereof, nor shall the City be subject to any liability thereon. The holders of the Bonds shall never have the right to compel any exercise of the taxing power of the City to pay the outstanding principal of the Bonds, or the interest thereon, or to enforce payment thereof against any property of the City. The Bonds shall recite in substance that the Bonds, including the interest thereon, are payable solely from the revenues and proceeds pledged to the payment thereof. The Bonds shall not constitute a debt of the City within the meaning of any constitutional or statutory limitation.

Be It Further Resolved that except as herein otherwise expressly provided, nothing in this Resolution or in the aforementioned documents expressed or implied is intended or shall be construed to confer upon any person or firm or corporation, other than the City or any holder of the Bonds issued under the provisions of this Resolution, any right, remedy or claim, legal or equitable, under and by reason of this Resolution or any provision hereof, this resolution, the aforementioned documents and all of their provisions being intended to be and being for the sole and exclusive benefit of the City and any holder from time to time of the Bonds issued under the provisions of this Resolution.

Be It Further Resolved that in case any one or more provisions of this Resolution, or of the aforementioned documents, or of the Bonds issued hereunder shall for any reason be held to be illegal or invalid, such illegality or invalidity shall not affect any other provision of this Resolution, or of the aforementioned documents, or of the Bonds, but this Resolution, the aforementioned documents, the Bonds shall be construed and enforced as if such illegal or invalid provision had not been contained therein.

Be It Further Resolved that the Bonds, when executed and delivered, shall contain a recital that they are issued pursuant to the Act, and such recital shall be conclusive evidence of the validity of the Bonds and the regularity of the issuance thereof, and that all acts, conditions and things required by the laws of the State of Minnesota relating to the adoption of this Resolution, to the issuance of the Bonds and to the execution of the aforementioned documents to happen, exist and be performed precedent to and in the enactment of this Resolution, and precedent to issuance of the Bonds, and precedent to the execution of the aforementioned documents have happened, exist and have been performed as so required by law.

Be It Further Resolved that in the event any of the officers of the City authorized to execute documents on behalf of the City under this resolution have resigned or shall for any reason be unable to do so, any member of the City, or officer of the City, is hereby directed and authorized to do so on behalf of the City, with the same effect as if executed by the officer authorized to do so in this Resolution.

Be It Further Resolved that the City hereby allocates up to \$5,500,000 of its 2011 (or carryover) entitlement authority to issue tax-exempt bonds pursuant to Minnesota Statutes, Chapter 474A, to the Bonds, the actual amount of such allocation to be in the aggregate principal amount of Bonds issued.

Be It Further Resolved that this Resolution shall take effect upon publication.

Adopted 8/5/2011.

Absent - Colvin Roy.

The COMMUNITY DEVELOPMENT and WAYS & MEANS/BUDGET Committees submitted the following reports:

Comm Dev & W&M/Budget - Your Committee, having under consideration the Metropolitan Council Tax Base Revitalization Account (TBRA) Investigation Grant Program, now recommends that the proper City officers be authorized to apply to the TBRA Investigation Grant Program for environmental investigation/assessment funding for the Cameron Building, 756 N 4th St, and Pillsbury Lofts, 301 Main St SE, projects.

Your Committee further recommends passage of the accompanying resolution authorizing appropriate City staff to submit said application.

Adopted 8/5/2011.

Absent - Colvin Roy.

Resolution 2011R-391, authorizing application to the Metropolitan Council Tax Base Revitalization Account for the Cameron Building and Pillsbury Lofts projects, was adopted 8/5/2011 by the City Council. A complete copy of this resolution is available for public inspection in the office of the City Clerk.

The following is the complete text of the unpublished summarized resolution.

**RESOLUTION 2011R-391
By Goodman and Hodges**

Authorizing application to the Metropolitan Council Tax Base Revitalization Account [TBRA] for various projects.

Whereas, the City of Minneapolis (the "City") was and is a participant in the Livable Communities Act's Housing Incentives Program as determined by the Metropolitan Council, and is therefore eligible to make application for funds under the Tax Base Revitalization Account; and

Whereas, the City has identified the following investigation projects within the City that preliminarily appear to meet the Tax Base Revitalization Account's purposes and criteria: Cameron Building and Pillsbury Lofts; and

Whereas, the City intends to act as the legal sponsor for the above-referenced projects, which will be more completely described in Tax Base Revitalization Account grant applications to be submitted to the Metropolitan Council on or by August 1, 2011, subject to final staff verification of each such application's compliance with the TBRA grant program's purposes and criteria; and

Whereas, the City has the institutional, managerial and financial capability to ensure adequate project and grant administration; and

Whereas, the City certifies that it will comply with all applicable laws and regulations as stated in the contract grant agreements; and

Whereas, the City finds that the contamination investigation will not occur through private or other public investment within the reasonably foreseeable future without Tax Base Revitalization Account grant funding; and

Whereas, the City represents that it has undertaken reasonable and good faith efforts to procure funding for the activities for which Livable Communities Act Tax Base Revitalization Account funding is sought but was not able to find or secure from other sources funding that is necessary for investigation completion;

Now, Therefore, Be It Resolved by The City Council of The City of Minneapolis:

That the City Council authorizes the Director of the Department of Community Planning and Economic Development or other appropriate City staff to apply on behalf of the City of Minneapolis to the Metropolitan Council for Tax Base Revitalization Account funding for one or more of the above-referenced projects. The City acknowledges that for each grant awarded to the City, the City will be the grantee and will act as legal sponsor, and will administer and be responsible for grant funds expended for the project referred to in the applicable grant application.

Adopted 8/5/2011.

Absent - Colvin Roy.

Comm Dev & W&M/Budget - Your Committee recommends acceptance of the low bid submitted to the Departments of Community Planning & Economic Development and Procurement on OP No. 7464 from Final Grade, Inc in the amount of \$93,000, to furnish and deliver all labor, materials, equipment, and incidentals necessary to accomplish demolition and site clearance of the following structures, per bid specifications: 3118 Irving Ave N, 3210 Vincent Ave N, 619-26th Ave N, 1235 Monroe St NE, 2700 Sheridan Ave N, 305-30th Ave N.

Your Committee further recommends that the proper City officers be authorized and directed to execute a contract for this project, all in accordance with City specifications.

Adopted 8/5/2011.

Absent - Colvin Roy.

The PUBLIC SAFETY, CIVIL RIGHTS & HEALTH Committee submitted the following reports:

PSC&H - Your Committee, to whom was referred the following ordinances amending Title 7 of the Minneapolis Code of Ordinances relating to *Civil Rights*, including "Gender Identity" as a protected class, now recommends that said ordinances be given their second reading for amendment and passage:

a) amending Chapter 139 relating to *In General*, amending the definition of "sexual orientation" and adding a protected class definition of gender identity or expression;

b) amending Chapter 141 relating to *Administration and Enforcement*, substituting the protected class of affectional preference with the protected classes of sexual orientation and gender identity.

Adopted 8/5/2011.

Absent - Colvin Roy.

Ordinance 2011-Or-067 amending Title 7, Chapter 139 of the Minneapolis Code of Ordinances relating to *Civil Rights: In General*, amending Sections 139.10, 139.20, 139.40 and 139.50 to amend the definition of "sexual orientation" and adding a protected class definition of gender identity or expression, was adopted 8/5/2011 by the City Council. A complete copy of this ordinance is available for public inspection in the office of the City Clerk.

The following is the complete text of the unpublished summarized ordinance.

ORDINANCE 2011-Or-067

By Lilligren

Intro & 1st Reading: 7/1/2011

Ref to: PSC&H

2nd Reading: 8/5/2011

Amending Title 7, Chapter 139 of the Minneapolis Code of Ordinances relating to Civil Rights: In General.

The City Council of the City of Minneapolis do ordain as follows:

Section 1. That Section 139.10 of the above-entitled ordinance be amended to read as follows:

139.10. Findings, declaration of policy and purpose, effective date. (a) *Findings.* The council finds that discrimination in employment, labor union membership, housing accommodations, property rights, education, public accommodations and public services based on race, color, creed, religion, ancestry, national origin, sex, including sexual harassment, sexual orientation, gender identity, disability, age, marital status, or status with regard to public assistance or familial status adversely affects the health, welfare, peace and safety of the community. Such discriminatory practices degrade individuals, foster intolerance and hate, and create and intensify unemployment, substandard housing, undereducation, ill health, lawlessness and poverty, thereby injuring the public welfare.

(b) *Declaration of policy and purpose.* It is the public policy of the City of Minneapolis and the purpose of this title:

- (1) To recognize and declare that the opportunity to obtain employment, labor union membership, housing accommodations, property rights, education, public accommodations and public services without discrimination based on race, color, creed, religion, ancestry, national origin, sex, including sexual harassment, sexual orientation, gender identity, disability, age, marital status, or status with regard to public assistance or familial status is a civil right.
- (2) To prevent and prohibit all discriminatory practices based on race, color, creed, religion, ancestry, national origin, sex, including sexual harassment, sexual orientation, gender identity, disability, age, marital status, or status with regard to public assistance with respect to employment, labor union membership, housing accommodations, property rights, education, public accommodations or public services.
- (3) To prevent and prohibit all discriminatory practices based on familial status with respect access to real estate and services related to real estate.
- (4) To protect all persons from discrimination and from unfounded charges of discriminatory practices.
- (5) To eliminate existence and the development of any ghettos in the community.
- (6) To effectuate the foregoing policy by means of public information and education, mediation and conciliation, and enforcement.

(c) *Effective date of 2006 amendments.* ~~The amendments to~~ Each provision in this chapter that was amended in 2006 shall apply to any complaint or charge alleging conduct occurring on or after July 1, 2006, except when such a provision is superseded through a subsequent amendment. The ordinance as enacted prior to ~~these~~ the 2006 amendments shall continue to apply to any complaint or charge alleging conduct arising before July 1, 2006.

Section 2. That Section 139.20 of the above-entitled ordinance be amended to read as follows:

139.20. Definitions.

Age: Insofar as it refers to any act prohibited by section 139.40(a), (b), (c), or (d) shall be deemed to prohibit using a person's age as a basis for a decision if the person is over the age of majority, which shall be deemed to protect any individual over the age of twenty-five (25) years.

American Indian: For the purpose of meeting any goals required pursuant to section 139.50, "American Indian" shall mean any person who is an enrolled member of an Indian tribe, or who is a descendent in the first or second degree of any such member, or who is recognized as an Indian by the Secretary of the Interior.

Business: Any partnership, association, corporation, legal representative, trustee, trustee in bankruptcy, or receiver. Business does not include the city and its departments, agencies, independent boards and commissions, the state and its departments and agencies, or other political subdivisions of the state.

Commission: The Minneapolis Commission on Civil Rights.

Complainant: A person for or on whose behalf a complaint alleging unlawful discrimination has been filed or issued.

Contract: Any contract or agreement entered into by the city for the provision of goods, services, buildings, improvements and other public works or development property in excess of fifty thousand dollars (\$50,000.00).

Department: The Minneapolis Department of Civil Rights.

Development contract: Any contract or agreement entered into by the city pursuant to which the city or MCDA provides direct or indirect financial assistance in excess of fifty thousand dollars (\$50,000.00) to a developer or owner of real property to facilitate construction or rehabilitation.

Development contract shall not include:

- (1) Low income housing tax credits provided pursuant to 26 U.S.C., Section 42;
- (2) Taxable or tax-exempt financing issued for projects located outside of the City of Minneapolis;
- (3) Small business loan programs where public dollars are leveraged or supplemented with private dollars of a participating lender that originates, services and collects the public and private loan payments under an agreement with the city;
- (4) NRP funds used for the construction or rehabilitation of seven or less residential units and the amount of the assistance is less than one hundred thousand dollars (\$100,000.00);
- (5) NRP funds used for the construction or rehabilitation of a commercial or industrial property where the amount of the assistance is less than one hundred thousand dollars (\$100,000.00);
- (6) Assistance to an organization that promotes affordable home ownership opportunities through the extensive use of volunteer labor and/or sweat equity components to rehabilitate or construct dwellings;
- (7) Land sales for fair market value with no other assistance to the purchaser greater than fifty thousand dollars (\$50,000.00).
- (8) Financial assistance used to rehabilitate or construct a single-family dwelling or duplex to be owned and occupied by the recipient of the financial assistance.

Director: The director of the department of civil rights.

Disability: Any condition or characteristic that causes a person to become a person with a disability. A person with a disability is any person who:

- (1) Has a physical, sensory or mental impairment which materially limits one or more major life activities; or
- (2) Has a record of such an impairment; or
- (3) Is perceived as having such an impairment.

Discriminate or discrimination: Includes any act, attempted act, policy or practice, which results in the unequal treatment, separation or segregation of or which otherwise adversely affects any person who is a member of a class protected by this title, and for purposes of discrimination based upon sex it includes sexual harassment.

Educational institution: A public or private institution located or operating in the City of Minneapolis which performs educational services and includes an academy, college, elementary or secondary school, extension course, kindergarten, nursery school system, and a business, nursing, professional, secretarial, technical or vocational school; and further includes any agent or employee of an educational institution.

Elderly person: A person who is at least fifty-five (55) years of age.

Employ: To use or be entitled to the use and benefit of the services of a person as an employee.

Employee: Includes all persons who seek to, apply to, or perform services for any employer for compensation, whether in the form of wages, salaries, commission or otherwise.

Employer: Includes any person within the City of Minneapolis who hires or employs any employee, and any person wherever situated who hires or employs any employee whose services are to be partially or wholly performed in the City of Minneapolis.

Employment: The state of being employed as an employee by an employer.

Employment agency: Any person located or operating in the City of Minneapolis, regularly undertaking, with or without compensation, to procure employees for an employer or to procure for employees opportunities to work for an employer.

Entity under review: A bidder, responder to a request for proposals, developer, owner or prospective contractor seeking to contract with the City or the Minneapolis Community Development Agency.

Familial status: The condition of one or more minors residing with (1) their parent or parents or the minor's legal guardian or (2) the designed of the parent or parents or guardian with the written permission of the parent or parents or guardian. The protections afforded against discrimination on the basis of familial status apply to any person who is pregnant or is in the process of securing legal custody of an individual who has not attained the age of majority.

Gender identity: A person's actual or perceived self-image or identity as expressed through dress, appearance, behavior, speech or similar characteristics, whether or not traditionally associated with the person's physical anatomy, chromosomal sex, or sex at birth.

Hearing committee: A committee of three (3) commissioners, one of whom is a lawyer, who have been designated by the chairperson of the commission to hear a complaint after a determination of probable cause and referral by the director.

Hire: To engage or contract for, or attempt to engage or contract for, the services of any person as an employee.

Housing for elderly persons: Housing:

- (1) Provided under any federal, state or local program that the director determines is specifically designed and operated to assist elderly persons, as defined in the federal, state or local program;
- (2) Intended for, and solely occupied by, persons sixty-two (62) years of age or older; or
- (3) Intended and operated for occupancy by at least one person fifty-five (55) years of age or older per unit, provided that:
 - a. There are significant facilities and services specifically designed to meet the physical or social needs of older persons, or if the provision of these facilities and services is not practicable, that the housing is necessary to provide important housing opportunities for older persons.
 - b. At least eighty (80) percent of the units are occupied by at least one person fifty-five (55) years of age or older per unit.
 - c. There is publication of, and adherence to, policies and procedures that demonstrate an intent by the owner or manager to provide housing for persons fifty-five (55) years of age or older.

Housing does not fail to meet the requirements for "housing for elderly persons" by reason of persons residing in the housing as of the effective date of this subsection who do not meet the age requirements of this subsection if new occupants of the housing meet the age requirements of this subsection. In addition, housing does not fail to meet the requirements by reason of unoccupied units if unoccupied units are reserved for occupancy by persons who meet the age requirements of this subsection.

Labor organization: Includes any person, employee representation committee or plan in which employees participate, or any agent or employee thereof, which operates in the City of Minneapolis or whose members live or are employed in the City of Minneapolis, and which exists wholly or in part for the purpose of dealing with employers concerning grievances, labor disputes, wages, rates of pay, hours or other terms or conditions of employment and shall include any conference, general committee, joint or system board, or joint council.

Lawyer: A person duly authorized and licensed by the State of Minnesota or any other state to engage in the practice of law.

Mediation: A forum in which a neutral third party facilitates communication between parties to promote settlement. Mediation focuses more on finding solutions than on determining fault. The mediator does not impose a decision or his or her own views upon the parties but aids them in reaching a mutually acceptable agreement.

National origin: The place of birth of an individual or of any of his lineal ancestors.

Person: Includes one or more individuals, labor organizations, partnerships, associations, corporations, legal representatives, mutual companies, joint stock companies, trusts, unincorporated organizations, trustees, trustees in bankruptcy, receivers, public bodies or public corporations,

including but not limited to the City of Minneapolis or any department or unit thereof, any other legal or commercial entity, and any agent or employee of all the foregoing.

Professional organization: Includes, but is not limited to, any person, organization, association, collective, or group which requires for membership any educational, experiential, professional or other credentials and provides services associated with the occupation, trade or professional around which the professional organization was formed to promote and service.

Public accommodations: Includes all services or facilities, other than governmental, of any kind offered or located within the City of Minneapolis which are generally open or offered to the public or which generally solicit public patronage or usage, whether operated for profit or not.

Public services: Includes all activities, services or facilities offered to the public within the City of Minneapolis by any governmental agency or unit of government owned, operated or managed by any local, state or federal government, including, but not limited to, the Minneapolis Community Development Agency and Special School District No. 1.

Qualified person with a disability:

- (1) With respect to employment, a person with a disability who, with reasonable accommodation, can perform the essential functions required of all applicants for the job in question.
- (2) With respect to public services and programs, a person with a disability who, with reasonable accommodation, physical and program access, meets the essential eligibility criteria required of all applicants for the program or service in question.

For the purpose of this chapter, "disability" excludes any condition resulting from alcohol or drug abuse which prevents a person from performing the essential functions of the job in question or constitutes a direct threat to property or the safety of others.

If a respondent contends that the person is not a qualified person with a disability, the burden is on the respondent to prove that it was reasonable to conclude the person with a disability, with reasonable accommodation, could not have met the requirements of the job or that the selected person was demonstrably better able to perform the job.

Real estate broker; real estate salesperson: A real estate broker as defined by Minnesota Statutes, Section 82.17, Subdivision 4, and real estate salesperson as defined by Minnesota Statutes, Section 82.17, Subdivision 5.

Real property: Any right, title, interest in or to the possession, ownership, enjoyment of occupancy of any parcel of land in the City of Minneapolis, any building situated thereon, or any portion of such buildings.

Reasonable accommodation: Steps which must be taken to accommodate the known physical or mental limitations of a qualified person with a disability. "Reasonable accommodation" may include but is not limited to:

- (1) Facilities readily accessible to and usable by persons with disabilities;
- (2) Restructuring, part-time or modified work schedules, acquisition or modification of equipment or devices, and the provision of aides on a temporary or periodic basis;

- (3) Access to real property through modifications to the public portions of the real property that renders it accessible to persons with mobility impairments, or other modifications as required to accommodate persons with disabilities; and
- (4) A person, who is a person with a disability, to make reasonable modifications of existing premises occupied or to be occupied by the person with a disability if the modifications may be necessary to afford the person with a disability full enjoyment of the premises; provided however, that a landlord may, where it is reasonable to do so, condition permission for a modification on the renter agreeing to restore the interior of the premises to the condition that existed before the modification, excluding reasonable wear and tear.

This definition is not intended to limit the offering of reasonable accommodations only to persons meeting the definition of disability described herein. Employers are encouraged to make accommodations that in their judgment will enhance the work performance of all employees regardless of disability status.

Religious or denominational educational institutions: An educational institution located or operating in the City of Minneapolis which is operated, supervised, controlled or sustained primarily by a religious or denominational organization, or is one which is stated by the parent church body to be and is, in fact, officially related to that church through church representation on the board of the institution and through substantial church financial assistance to the institution, providing the institution has certified, in writing, to the commission that it is a religious or denominational educational institution; and further includes any agent or employee of such an institution.

Reprisal: A reprisal includes, but is not limited to, any form of intimidation, retaliation, or harassment. It is a reprisal for an employer to do any of the following with respect to a person because that person has engaged in the activities listed in subsection 139.40(l)(3) refuse to hire the person; depart from any customary employment practice; transfer or assign the person to a lesser position in terms of wages, hours, job classification, job security, or other employment status; or inform another employer that the person has engaged in the activities listed in subsection 139.40(l)(3).

Respondent: A person against whom a complaint alleging unlawful discrimination has been filed or issued.

Review committee: A committee of three (3) commissioners, one of whom is a lawyer, who have been designated by the chair person of the commission to review an appeal by a complainant from a determination of no probable cause by the director.

Sex: The character of being male or female and encompasses, but is not limited to, pregnancy, childbirth, disabilities related to pregnancy or childbirth, and sexual harassment.

Sexual harassment: Includes unwelcome sexual advances, requests for sexual favors, sexually motivated physical contact or other verbal or physical conduct, or communication of a sexual nature when:

- (1) Submission to the conduct, or communication, is made a term or condition, either explicitly or implicitly, of obtaining the services of a labor organization, employment, the services of an employment agency, real estate, the services of a lending institution, public accommodations, public services, or the services of an educational institution, or;
- (2) Submission to or rejection of that conduct or communication is used as a factor in decisions affecting that individual in obtaining the services of a labor organization, employment, the services of an employment agency, real estate, the services of a lending

institution, public accommodations, public services, or the services of an educational institution, or;

- (3) That conduct or communication has the purpose or effect of substantially interfering with an individual in regard to, or creating an intimidating, hostile or offensive environment in regard to the services of a labor organization, employment, the services of an employment agency, real estate, the services of a lending institution, public accommodations, public services, or the services of an educational institution.

Sexual orientation means having: Having or being perceived as having an emotional, physical, or sexual attachment to another person without regard to the sex of that person or having or being perceived as having an orientation for such attachment, ~~or having or being perceived as having a self-image or identity not traditionally associated with one's biological maleness or femaleness.~~ Sexual orientation does not include a physical or sexual attachment to children by an adult.

Status with regard to public assistance: The condition of being a recipient of federal, state or local assistance, including medical assistance, or of being a tenant receiving federal, state or local subsidies, including rental assistance or rent supplements.

Section 3. That Section 139.40 of the above-entitled ordinance be amended to read as follows:

139.40. Acts of discrimination specified. Without limitation, the following are declared to be unfair discriminatory acts:

(a) *Discrimination by a labor organization.* Except when based on a bona fide occupational qualification, for any labor organization, because of race, color, creed, religion, ancestry, national origin, sex, sexual orientation, gender identity, disability, age, marital status, or status with regard to public assistance:

- (1) To deny full and equal membership rights to a person seeking membership or to a member
- (2) To expel a member from membership
- (3) To discriminate against a person seeking membership or a member with respect to his hiring, apprenticeship, tenure, compensation, terms, upgrading, conditions, facilities, or privileges of employment
- (4) To fail to classify properly, or refer for employment or otherwise to discriminate against a person or member
- (5) To fail to make reasonable accommodation to the known disability of a qualified person with a disability unless the labor organization can demonstrate that the accommodation would impose an undue hardship on it.

"Reasonable accommodation" means steps which must be taken to accommodate the known physical or mental limitations of a qualified person with a disability. "Reasonable accommodation" may include but is not limited to, nor does it necessarily require:

- (i) making facilities readily accessible to and usable by persons with disabilities.
- (ii) job restructuring, modified work schedules, acquisition or modification of equipment or devices, and the provision of aides on a temporary or periodic basis.

In determining whether an accommodation would impose an undue hardship on the operation of a labor organization, factors to be considered include:

- a. The overall size of the labor organization with respect to number of members and the number and type of facilities in which those members are employed.
 - b. The type of operation, including the composition and structure of the work force.
 - c. The nature and cost of the needed accommodation.
 - d. The reasonable ability to finance the accommodation at each site of business.
 - e. Documented good faith efforts to explore less restrictive or less expensive alternatives, including consultation with the person with a disability and with knowledgeable persons with disabilities or disability organizations.
- (6) Except when based on a bona fide occupational qualification, it is an unfair employment practice for a labor organization, with respect to all employment related purposes, including receipt of benefits under fringe benefit programs, not to treat women affected by pregnancy, childbirth, or disabilities related to pregnancy or childbirth, the same as other persons who are not so affected but who are similar in their ability or inability to work, including a duty to make reasonable accommodations as provided by 139.40(a)(5).

(b) *Discrimination in employment.* Except when based on a bona fide occupational qualification, for an employer because of race, color, creed, religion, ancestry, national origin, sex, sexual orientation, gender identity, disability, age, marital status, or status with regard to public assistance:

- (1) To fail or refuse to hire or to maintain a system of employment which unreasonably excludes a person seeking employment.
- (2) To discharge an employee.
- (3) To discriminate against a person or employee with respect to application, hiring, training, apprenticeship, tenure, promotion, upgrading, compensation, layoff, discharge, or any term or condition of employment.
- (4) For an employer with fifteen (15) or more permanent full-time employees to fail to make reasonable accommodation to the known disability of a qualified person with a disability unless it can demonstrate that the accommodation would impose an undue hardship on it.

“Reasonable accommodation” means steps which must be taken to accommodate the known physical or mental limitations of a qualified person with a disability. “Reasonable accommodation” may include but is not limited to, nor does it necessarily require:

- (i) making facilities readily accessible to and usable by persons with disabilities.
- (ii) job restructuring, modified work schedules, acquisition or modification of equipment or devices, and the provision of aides on a temporary or periodic basis. A prospective employer need not pay for an accommodation for a job applicant if it is available from an alternative source without cost to the employer or applicant.

In determining whether an accommodation would impose an undue hardship on the operation of an employer, factors to be considered include:

- a. The overall size of the employer with respect to number of employees or members and the number and type of facilities.
 - b. The type of operation, including the composition and structure of the work force.
 - c. The nature and cost of the needed accommodation.
 - d. The reasonable ability to finance the accommodation at each site of business.
 - e. Documented good faith efforts to explore less restrictive or less expensive alternatives, including consultation with the person with a disability and with knowledgeable persons with disabilities or disability organizations.
- (5) Except when based on a bona fide occupational qualification, it is an unfair employment practice for an employer, with respect to all employment related purposes, including receipt of benefits under fringe benefit programs, not to treat women affected by pregnancy, childbirth, or disabilities related to pregnancy or childbirth, the same as other persons who are not so affected but who are similar in their ability or inability to work, including a duty to make reasonable accommodations as provided by 139.40(b)(4).

(c) *Discrimination by an employment agency.* Except when based on a bona fide occupational qualification, for an employment agency because of race, color, creed, religion, ancestry, national origin, sex, sexual orientation, gender identity, disability, age, marital status, or status with regard to public assistance:

- (1) To refuse or fail to accept, register, classify properly, or refer for employment or otherwise to discriminate against a person.
- (2) To comply with a request from an employer for referral of applicants for employment if the request indicates directly or indirectly that the employer fails to comply with the provisions of this title.
- (3) To fail to make reasonable accommodation to the known disability of a qualified person with a disability unless it can demonstrate that the accommodation would impose an undue hardship on it. "Reasonable accommodation" means steps which must be taken to accommodate the known physical or mental limitations of a qualified person with a disability.

"Reasonable *accommodation*" may include but is not limited to, nor does it necessarily require:

- (i) making facilities readily accessible to and usable by persons with a disability.
- (ii) job restructuring, modified work schedules, acquisition or modification of equipment or devices, and the provision of aides on a temporary or periodic basis.

In determining whether an accommodation would impose an undue hardship on the operation of an employment agency, factors to be considered include:

- a. The overall size of the agency with respect to number of persons referred for employment and the kind or type of employment to which persons are referred.

- b. The nature and cost of the needed accommodation.
 - c. Documented good faith efforts to explore less restrictive or less expensive alternatives, including consultation with the person with a disability and with knowledgeable persons with disabilities or disability organizations.
- (4) Except when based on a bona fide occupational qualification, it is an unfair employment practice for an employer, with respect to all employment related purposes, including receipt of benefits under fringe benefit programs, not to treat women affected by pregnancy, childbirth, or disabilities related to pregnancy or childbirth, the same as other persons who are not so affected but who are similar in their ability or inability to work, including a duty to make reasonable accommodations as provided by 139.40(c)(3).

(d) *Discriminatory practices in furnishing employment information and employment advertising.* Except when based on a bona fide occupational qualification, for an employer, employment agency, or labor organization, before a person is employed by an employer or admitted to membership in a labor organization:

- (1) To require a person to furnish information that pertains to race, color, creed, religion, ancestry, national origin, sex, sexual orientation, gender identity, disability, age, marital status, or status with regard to public assistance, unless one (1) of the following apply:
 - a. For the purpose of national security, information pertaining to national origin is required by the United States, this state, or a political subdivision or agency of the United States or this state.
 - b. For the purpose of compliance with the Public Contracts Act or any rule, regulation or laws of the United States or of this state requiring information pertaining to race, color, creed, religion, ancestry, national origin, sex, sexual orientation, gender identity, disability, age, marital status, or status with regard to public assistance is required by the United States, this state, or a political subdivision or agency of the United States or this state.
- (2) To cause to be printed or published a notice or advertisement that relates to employment or membership and discloses a preference, limitation, specification, or discrimination based on race, color, creed, religion, ancestry, national origin, sex, sexual orientation, gender identity, disability, age, marital status, or status with regard to public assistance.

(e) *Discrimination in real estate.* For an owner, lessee, sublessee, managing agent of, real estate broker, real estate salesperson or other person having the right to sell, rent or lease any property, or any agent or employee of any of these:

- (1) To refuse to sell, rent or lease, to offer for sale, rental or lease, or otherwise deny or withhold any real property to or from any person or group of persons or to refuse to negotiate for the sale, rental or lease of any real property to any person or group of persons because of race, color, creed, religion, ancestry, national origin, sex, sexual orientation, gender identity, disability, marital status, status with regard to public assistance or familial status.
- (2) To represent that real property is not available for inspection, sale, rental or lease when in fact it is so available, or otherwise deny or withhold any real property or any facilities of real property to or from any person or group of persons because of race, color, creed, religion, ancestry, national origin, sex, sexual orientation, gender identity, disability, marital status, status with regard to public assistance or familial status.

- (3) To discriminate against any person in the terms, conditions or privileges of the sale, rental or lease of real property or in the furnishing of facilities or services in connection therewith, including application processes and fees, because of race, color, creed, religion, ancestry, national origin, sex, sexual orientation, gender identity, disability, marital status, status with regard to public assistance or familial status.
- (4) To fail or refuse to make reasonable accommodations in rules, policies, practices or services when necessary to afford a person with a disability an opportunity to use, enjoy or continue to use or enjoy a dwelling.
- (5) To print, circulate or post, or cause to be printed, circulated or posted, any advertisement or sign, or use any form of application for the purchase, rental or lease of any real property, or make any record or inquiry verbal or written in connection with the prospective purchase, rental or lease of any real property, which expresses directly or indirectly, any limitation, specification or discrimination as to race, color, creed, religion, ancestry, national origin, sex, sexual orientation, gender identity, disability, marital status, status with regard to public assistance or familial status.
- (6) To fail to design and construct covered multifamily dwellings available for first occupancy after March 13, 1991, so that:
 - a. The dwellings have at least one (1) building entrance on an accessible route, unless it is impractical to do so because of terrain or unusual site characteristics; or
 - b. With respect to dwellings with a building entrance on an accessible route:
 - 1. The public and common use portions are readily accessible to and usable by persons with disabilities.
 - 2. There is an accessible route into and through all dwellings and units.
 - 3. All doors designed to allow passage into, within and through these dwellings and individual units are wide enough for persons with disabilities in wheelchairs.
 - 4. Light switches, electrical switches, electrical outlets, thermostats, and other environmental controls are in accessible locations.
 - 5. Bathroom walls are reinforced to allow later installation of grab bars.
 - 6. Kitchens and bathrooms have space for a person in a wheelchair to maneuver.

For purposes of this subsection, the term "covered multifamily dwellings" means either buildings consisting of four (4) or more units if such buildings have one (1) or more elevators or ground floor units in other buildings consisting of four (4) or more units.

- (7) To fail to make reasonable accommodation to the known disability of a disabled person.
- (8) To provide services at different fee schedules between a person with a spouse and a person with registered domestic partner, or between a person with a spouse and children and a person with a registered domestic partner and children.

(f) *Discriminatory representation by real estate brokers or real estate salespersons.* For any real estate broker or real estate salesperson, property owner, rental agent, property manager, caretaker or any agent or employee thereof, for the purpose of inducing a real property transaction from which a

person, that person's firm, or any of its members may benefit financially, to represent that a change has occurred or will or may occur in the composition with respect to race, color, creed, religion, ancestry, national origin, sex, sexual orientation, gender identity, disability, marital status, status with regard to public assistance or familial status of the owners or occupants in the block, neighborhood or area in which the real property is located, and to represent, directly or indirectly, that this change will or may result in undesirable consequences in the block, neighborhood or area in which the real property is located, including but not limited to the lowering of property values, an increase in criminal or antisocial behavior, or a decline in the quality of schools or other public facilities.

(g) *Discrimination by professional organizations.* Except when based on a bona fide occupational qualification, for any professional association, because of race, color, creed, religion, ancestry, national origin, sex, sexual orientation, gender identity, disability, age, marital status, status with regard to public assistance, or familial status:

- (1) To deny full and equal membership rights to a person seeking membership or to a member.
- (2) To expel a member from membership.
- (3) To discriminate against a person seeking membership or a member with respect to the terms and conditions of membership, services and privileges associated with membership, participation in all membership activities and benefits, or any other aspect of membership.
- (4) To fail to properly classify a person seeking membership or a member with regard to the availability of membership services, cost of membership or otherwise discriminate against a person seeking membership or a member.
- (5) To fail to make reasonable accommodation to the known disability of a qualified disabled person unless the professional organization can demonstrate that the accommodation would impose an undue hardship on it.
- (6) To provide services at different fee schedules between a person with a spouse and a person with registered domestic partner, or between a person with a spouse and children and a person with a registered domestic partner and children.

(h) *Discrimination in lending.* For any person, bank, banking organization, mortgage company, insurance company, broker, underwriter or other financial institution or lender, or any agent or employee thereof, to whom application is made for financial assistance:

- (1) To discriminate against any person or group of persons because of race, color, creed, religion, ancestry, national origin, sex, sexual orientation, gender identity, disability, marital status, or status with regard to public assistance or familial status in the granting, withholding, extending, modifying or renewing, or in the rates, terms, conditions or privileges of any such financial assistance or in the extension of services in connection therewith.
- (2) To use any form of application for such financial assistance or make any verbal or written record or inquiry in connection with applications for such financial assistance which expresses, directly or indirectly, any preference, limitation, specification or discrimination as to race, color, creed, religion, ancestry, national origin, sex, sexual orientation, gender identity, disability, marital status, or status with regard to public assistance or familial status or any intent to make any such preference, limitation, specification or discrimination.
- (3) To discriminate against any person or group of persons who desire to purchase, lease, acquire, construct, rehabilitate, repair or maintain real property in a specific urban area

because of the social, economic or environmental conditions of the area in the granting, withholding, extending, modifying or renewing, or in the rates, terms, conditions or privileges of any such financial assistance or in the extension of services in connection therewith. All financial institutions shall post the following sign in a conspicuous place: "This institution abides by the federal, state and local laws prohibiting the denial of a mortgage or home improvement loan or the granting of a mortgage or home improvement loan on different terms, because of the conditions in the neighborhood in which the home is located. If you believe you have been discriminated against, call either of the following agencies for help: State Human Rights Department; City Civil Rights Department."

(i) *Discrimination in public accommodations.* For any person engaged in the provision of public accommodations:

- (1) To fail or refuse to provide to any person access to the use of and benefit from the services, privileges, advantages, accommodations and facilities of such public accommodations because of race, color, creed, religion, ancestry, national origin, sex, sexual orientation, gender identity, disability, marital status, or status with regard to public assistance.
- (2) To discriminate against any person with respect to the availability of such services and facilities, the price or other consideration therefor, the scope and quality thereof, or the terms and conditions under which the same are made available, including terms and conditions relating to credit, payment, warranties, delivery, installation and repair because of race, color, creed, religion, ancestry, national origin, sex, sexual orientation, gender identity, disability, marital status, or status with regard to public assistance.
- (3) To provide services at different fee schedules between a person with a spouse and a person with registered domestic partner, or between a person with a spouse and children and a person with a registered domestic partner and children because of race, color, creed, religion, ancestry, national origin, sex, sexual orientation, gender identity, disability, marital status, or status with regard to public assistance.
- (4) To not make reasonable accommodation to the known physical, sensory, or mental disability of a person with a disability in a place of public accommodation. In determining whether an accommodation is reasonable, the factors to be considered may include:
 - a. The frequency and predictability with which members of the public will be served by the accommodation at that location.
 - b. The size of the business or organization at that location with respect to physical size, annual gross revenues, and the number of employees.
 - c. The extent to which persons with disabilities will be further served from the accommodation.
 - d. The type of operation.
 - e. The nature and amount of both direct costs and legitimate indirect costs of making the accommodation and the reasonableness for that location to finance the accommodation.
 - f. The extent to which any persons may be adversely affected by the accommodation.
- (5) To subject a person or class of persons on the basis of a disability of that person or class of persons, directly or through contractual, licensing, or other arrangements, to a denial

of the opportunity of the person or class of persons to participate in or benefit from the goods, services, facilities, privileges, advantages, or accommodations of an entity.

- (6) To afford a person or class of persons, on the basis of the disability of that individual or class of persons, directly or through contractual, licensing, or other arrangements, with the opportunity to participate in or benefit from the goods, services, facilities, privileges, advantages, or accommodations that are not equal to those afforded to other persons.
- (7) To provide a person or class of persons, on the basis of a disability of that person or class of persons, directly or through contractual, licensing, or other arrangements, with goods, services, facilities, privileges, advantages, or accommodations that are different or separate from those provided to other individuals, unless the action is necessary to provide the individual or class of individuals with goods, services, facilities, privileges, advantages, or accommodations, or other opportunities that are as effective as those provided to others.
- (8) To not afford goods, services, facilities, privileges, advantages, and accommodations to a person with a disability in the most integrated setting appropriate to the needs of the person with a disability.
- (9) Notwithstanding the existence of separate or different programs or activities provided in accordance with subdivision 139.40(i)(5), to deny a person with a disability the opportunity to participate in the programs or activities that are not separate or different.
- (10) To, directly or through contractual or other arrangements, use standards or criteria and methods of administration that either:
 - a. Have the effect of discriminating on the basis of disability.
 - b. Perpetuate on the basis of disability the discrimination of others who are subject to common administrative control.
- (11) To impose or apply eligibility criteria that screen out or tend to screen out a person with a disability or any class of persons with disabilities from fully and equally enjoying any goods, services, facilities, privileges, advantages, or accommodations, unless the criteria can be shown to be necessary for the provision of the goods, services, facilities, privileges, advantages, or accommodations.
- (12) To fail to make reasonable modifications in policies, practices, or procedures when the modifications are necessary to afford the goods, services, facilities, privileges, advantages, or accommodations to persons with disabilities, unless the entity can demonstrate that making the modifications would fundamentally alter the nature of the goods, services, facilities, privileges, advantages, or accommodations.
- (13) To fail to take all necessary steps to ensure that no person with a disability is excluded, denied services, segregated, or otherwise treated differently than other persons because of the absence of auxiliary aids and services, unless the entity can demonstrate that taking the steps would fundamentally alter the nature of the goods, services, facilities, privileges, advantages, or accommodations being offered and would result in an undue burden;
- (14) To fail to remove architectural barriers, and communication barriers that are structural in nature, in existing facilities, and transportation barriers in existing vehicles used by an establishment for transporting individuals, not including barriers that can only be removed through the retrofitting of vehicles by the installation of hydraulic or other lifts, if the removal is readily achievable.

- (15) If an entity can demonstrate that the removal of a barrier under subdivision 139.40(i)(12) is not readily achievable or cannot be considered a reasonable accommodation, to fail to make the goods, services, facilities, privileges, advantages, or accommodations available through alternative means if the means are readily achievable.
- (16) To deny any person with a disability the full and equal enjoyment of specified public transportation services provided by a private entity that is primarily engaged in the business of transporting people and whose operations affect commerce by any of the following:
- a. The imposition or application of eligibility criteria that screen out, or tend to screen out, an individual with a disability or a class of individuals with disabilities from fully enjoying the specified public transportation services provided by the entity, unless the criteria can be shown to be necessary for the provision of the services being offered.
 - b. The failure to make reasonable modifications, provide auxiliary aids and services, and remove barriers, consistent with subdivision 139.40(i)(9) through 139.40(i)(13).
 - c. The purchase or lease of a new vehicle, other than an automobile or van with a seating capacity of fewer than eight (8) passengers, including the driver, or an over-the-road bus, that is to be used to provide specified public transportation that is not readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs, except that a new vehicle need not be readily accessible to and usable by individuals with disabilities if the vehicle is to be used solely in a demand responsive system and if the private entity can demonstrate that the system, when viewed in its entirety, provides a level of services to individuals with disabilities equivalent to the level of service provided to the general public.
 - d. The purchase or lease a new railroad passenger car that is to be used to provide specified public transportation if the car is not readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs, or to manufacture railroad passenger cars or purchase used cars that have been remanufactured so as to extend their usable life by ten (10) years or more, unless the remanufactured car, to the maximum extent feasible, is made readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs, except that compliance with this clause is not required to the extent that compliance would significantly alter the historic or antiquated character of historic or antiquated railroad passenger cars or rail stations served exclusively by those cars.
 - e. The purchase or lease a new, used, or remanufactured vehicle with a seating capacity in excess of sixteen (16) passengers, including the driver, for use on a fixed route public transportation system, that is not readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs. If a private entity that operates a fixed route public transportation system purchases or leases a new, used, or remanufactured vehicle with a seating capacity of sixteen (16) passengers or fewer, including the driver, for use on the system which is not readily accessible to and usable by individuals with disabilities, it is an unfair discriminatory practice for the entity to fail to operate the system so that, when viewed in its entirety, the system ensures a level of service to individuals with disabilities, including individuals who use wheelchairs, equivalent to the level of service provided to individuals without disabilities.
 - f. Failing to operate a demand responsive system so that, when viewed in its entirety, the system ensures a level of service to individuals with disabilities, including

individuals who use wheelchairs, equivalent to the level of service provided to individuals without disabilities. It is an unfair discriminatory practice for the entity to purchase or lease for use on a demand responsive system a new, used, or remanufactured vehicle with a seating capacity in excess of sixteen (16) passengers, including the driver, that is not readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs, unless the entity can demonstrate that the system, when viewed in its entirety, provides a level of service to individuals with disabilities equivalent to that provided to individuals without disabilities.

- (17) To construct a new facility or station to be used in the provision of public transportation services, unless the facilities or stations are readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs.
- (18) To fail to make alterations necessary in order, to the maximum extent feasible, to make the altered portions of facilities or stations currently used for the provision of public transportation services readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs. If the private entity is undertaking an alteration that affects or could affect the usability of or access to an area of the facility containing a primary function, the entity shall make the alterations so that, to the maximum extent feasible, the path of travel to the altered area, and the bathrooms, drinking fountains, and telephones serving the altered area, are readily accessible to and usable by individuals with disabilities if the alterations to the path of travel or to the functions mentioned are not disproportionate to the overall alterations in terms of cost and scope. The entity raising this defense has the burden of proof, and the department shall review these cases on a case-by-case basis.

For purposes of subsections 139.40(i)(5), 139.40(i)(6), and 139.40(i)(7), “person” or “class of persons” means clients or customers of the covered public accommodation that enter into the contractual, licensing, or other arrangement.

State or local building codes control where applicable. Violations of state or local building codes are not violations of this chapter and must be enforced under normal building code procedures.

Nothing in this subsection requires an entity to permit a person with a disability to participate in and benefit from the goods, services, facilities, privileges, advantages, and accommodations of the entity if the person with a disability poses a direct threat to the health or safety of others. “Direct threat” means a significant risk to the health or safety of others that can not be eliminated by a modification of policies, practices, or procedures or by the provision of auxiliary aids or services.

(j) *Discrimination in public services.* For any person engaged in the provision of public services, because of race, color, creed, religion, ancestry, national origin, sex, sexual orientation, gender identity, disability, marital status, or status with regard to public assistance:

- (1) To discriminate against any person, in the access to, admission to, full use of or benefit from any public service.
- (2) To provide public services at different fee schedules between a person with a spouse and a person with a registered domestic partner, or between a person with a spouse and children and a person with a registered domestic partner and children.

(k) *Discrimination in educational institutions.* For any educational institution, because of race, color, creed, religion, ancestry, national origin, sex, sexual orientation, gender identity, disability, marital status, or status with regard to public assistance:

- (1) To discriminate against any person in the full use of or benefit from such institution, or the services rendered thereby to any persons because of protected class status or to fail to ensure physical or program access for disabled persons. For purposes of this paragraph, program access includes but is not limited to providing taped texts, interpreters or other methods of making orally delivered materials available, readers in libraries, adapted classroom equipment, and similar auxiliary aids or services. Program access does not include providing attendants, individually prescribed devices, readers for personal use or study, or other devices or services of a personal nature.
- (2) To exclude, expel or otherwise discriminate against a person seeking admission as a student, or a person enrolled as a student.
- (3) To make or use a written or oral inquiry, or form of application for admission that elicits or attempts to elicit information, or to make or keep a record concerning the protected class status of an applicant, except when maintained as applicant flow data in a file that is not accessible to persons making admission decisions.
- (4) To fail to make reasonable accommodations to the known disability of a qualified person with a disability unless it can demonstrate that the accommodation would impose an undue hardship on it. In determining whether an accommodation would impose an undue hardship on the operation of an educational institution, factors to be considered include:
 - a. The overall size of the educational institution with respect to number of students and the number and type of facilities.
 - b. The nature and cost of the needed accommodation.
 - c. The reasonable ability of the educational institution to finance the accommodation.
 - d. Documented good faith efforts to explore less restrictive or less expensive alternatives, including consultation with the person with a disability or with knowledgeable persons with disabilities or disability organizations.

(l) *Discrimination in business.* It is an unfair discriminatory practice for a person engaged in a trade or business or in the provision of a service:

- (1) To refuse to do business with or provide a service to a woman based on her use of her current or former surname.
- (2) To impose, as a condition of doing business with or providing a service to a woman, that a woman use her current surname rather than a former surname.
- (3) To intentionally refuse to do business with, to refuse to contract with, or to discriminate in the basic terms, conditions, or performance of the contract because of a person's race, national origin, color, sex, sexual orientation, gender identity, or disability, unless the alleged refusal or discrimination is because of a legitimate business purpose.

Nothing in this subsection shall prohibit positive action plans.

(m) *Aiding, abetting or facilitating discrimination; reprisals related to discrimination; coercion related to housing.* For any person:

- (1) To conceal or attempt to conceal any discriminatory act forbidden by this title or to aid, abet, compel, coerce, incite or induce, or attempt to induce, another person to discriminate.

- (2) To use any trick, artifice, advertisement, sign, form of application, record on inquiry or any device whatsoever to bring about or facilitate discrimination.
- (3) To engage in any reprisal, economic or otherwise, because another person opposed a discriminatory act forbidden under this title, has filed a charge, testified, assisted or participated in any manner in an investigation, proceeding or hearing under this title, or has associated with a person or group of persons of a different race, color, creed, religion, ancestry, national origin, sex, sexual orientation, gender identity, status with regard to disability, age, marital status, status with regard to public assistance or familial status.
- (4) To coerce, intimidate, threaten, or interfere with any person in the exercise of or enjoyment of, or on account of his or her having exercised or enjoyed, or on account of his or her having aided or encouraged any other person in the exercise or enjoyment of any right with regard to real estate granted or protected by subdivisions (e), (f) or (h) of this section.

Nothing in this subsection shall prohibit positive action plans.

Section 4. That Section 139.50 of the above-entitled ordinance be amended to read as follows:

139.50. Provisions required in contracts with city. (a) *Required contract clauses.* Unless exempted by the director, all City of Minneapolis contracts shall include the following provisions, specifically or by reference:

During the performance of this contract, the contractor agrees as follows:

- (1) The contractor will not discriminate against any employee or applicant for employment because of race, color, creed, religion, ancestry, national origin, sex, sexual orientation, gender identity, disability, age (forty (40) to seventy (70)), marital status, or status with regard to public assistance. The contractor will take affirmative action to ensure that all employment practices are free of such discrimination. Such employment practices include but are not limited to the following: Hiring, upgrading, demotion, transfer, recruitment or recruitment advertising, layoff, termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the Minneapolis Department of Civil Rights ("MDCR") setting forth the provisions of this nondiscrimination clause.
- (2) The contractor will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that it is an equal opportunity or affirmative action employer.
- (3) The contractor will send to each labor union or representative of workers with which it has a collective bargaining agreement or other contract or understanding, a notice, to be provided by the MDCR, advising the labor union or workers' representative of the contractor's commitments under section 139.50 of the Minneapolis Code of Ordinances, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
- (4) The contractor will comply with all provisions of Title 7 of the Minneapolis Code of Ordinances, and with all rules and regulations issued by the director of the MDCR ("director") or the Minneapolis Commission on Civil Rights.
- (5) The contractor will furnish and cause each of its subcontractors to furnish all information and reports by section 139.50 of the Minneapolis Code of Ordinances, and

by the rules and regulations of the director or of the commission, and will permit access to its books, records and accounts by the director, the director's agent, or the commission, for purposes of investigation to ascertain compliance with the rules, regulations and provisions of Title 7.

- (6) The contractor shall take action to afford Minority-Owned Business Enterprises and Women-Owned Business Enterprises, as defined in chapter 423, full and fair opportunities to compete on this contract and resulting subcontracts. This provision is not intended to limit in any manner the right of a contractor to enter into a contract with a subcontractor whose status as a Minority-Owned Business Enterprise or Women-Owned Business Enterprise has not been determined by the MDCR. Any non-compliance of the provisions of chapter 423, or of any rules or regulations promulgated by the MDCR pursuant to chapter 423, may result in the penalties outlined in chapter 423.
- (7) In the event of the contractor's noncompliance with the nondiscrimination clauses of this contract or with any of such rules, regulations or provisions of Title 7, this contract may be canceled, terminated or suspended, in whole or in part, and the contractor may be declared ineligible by the Minneapolis City Council for further city contracts in addition to other remedies as provided in Title 7. In addition, the contractor shall be liable for any costs or expenses incurred by the City of Minneapolis in obtaining from other sources the work and services to be rendered or performed or the goods or properties to be furnished or delivered to the city under this contract and for administrative costs incurred in seeking compliance. The city shall have the right to specific performance of this contract. Further, in the event there is probable cause to believe the contractor is in noncompliance with the nondiscrimination clauses of this contract or with any applicable rules or regulations, the city shall withhold up to fifteen (15) percent of said contract amount until such time as the contractor is found to be in compliance or in the event that withholding a portion of the contract amount is not a feasible alternative, then liquidated damages of five hundred dollars (\$500.00) per day for each day that the director shall determine that there is probable cause to believe that the contractor is in noncompliance with this section shall be imposed, or is otherwise adjudicated to be in compliance.

(b) *Noncompliance.* When the director or the director's designee shall have probable cause to believe that the contractor is not in compliance with any provision of subsection (a) paragraphs (1) through (7) or with the implementing rules, regulations, provisions or plans thereto, the director or the director's designee shall notify the city department administering said contract and shall engage the contractor and the administering department in conciliation and persuasion to try to eliminate the acts or practices giving rise to such belief.

Should conciliation and persuasion fail to eliminate the noncompliant acts or practices, the director or the director's designee shall either request a hearing before the city council on the subject matter of the noncompliance or file a director's charge and refer said charge to the commission demanding that a hearing panel of the commission be convened to hear the charge.

(1) *Hearing before city council.*

- a. The president may refer the matter in conformance with council procedures to the appropriate standing committee, no later than its second next regular meeting, for public hearing on the alleged noncompliance and the committee shall report its findings to the council. The council may take final action including final imposition of sanctions under subsection (a)(7), direction to the director to obtain compliance or any other action it deems just and proper.

- b. Should the director or the director's designee have probable cause to believe that the contractor remains in noncompliance, the director shall file a director's charge and refer said charge to the commission demanding that a hearing panel of the commission be convened to hear the complaint. The hearing panel shall be convened as set forth in 139.50(b)(2).

(2) *Hearing before a panel of the commission.*

- a. The hearing on the director's charge shall be held within thirty (30) days of notification of the matter for hearing. The city attorney shall represent the director before the commission.
- b. The chairperson of the commission on civil rights shall appoint a three-person panel, one (1) of whom shall be an attorney, who shall also be chairperson of the panel.

The panel shall hold a public hearing on the director's charge and shall receive evidence pursuant to the provisions of Minnesota Statutes Section 14.60. The hearing panel shall make findings with respect to the contract, ordinance provisions, affirmative action plan or women and minority business enterprise plan. The hearing panel shall order final action including final imposition of sanctions under subsection (a)(7) of this section.

- c. Whenever, in the director's judgment a public hearing pursuant to subsection (b)(2) will take longer than two (2) full days to complete, the director shall certify such fact to the commission and the chairpersons of the commission shall appoint a person who is a lawyer and who may or may not be a member of the commission to conduct the public hearing. In such cases, the hearing examiner shall have the same duties, obligations and powers as a hearing panel.

(c) *Subcontracts.* The contractor will include the provisions of subsection (a) paragraphs (1) through (7) in every subcontract or purchase order, specifically or by reference, unless exempted by rules, regulations or orders of the director or the commission, issued pursuant to chapter 141 of this title, so that such provisions will be binding upon each subcontractor or vendor.

(d) *Written affirmative action plan.* Neither the City of Minneapolis nor the Minneapolis Community Development Agency shall enter into contracts or amend any contract resulting in a cumulative contract award in excess of fifty thousand dollars (\$50,000.00) with any bidder or prospective contractor until a written affirmative action plan has been approved by the director or the director's designee and until the department has conducted a pre-award compliance review.

Neither the City of Minneapolis nor the Minneapolis Community Development Agency shall not close on any Development Contract until a written affirmative action plan from the recipient of assistance and any prospective contractor with a contract in excess of fifty thousand dollars (\$50,000.00) has been approved by the director or the director's designee and until the department has conducted a pre-award compliance review.

The director or director's designated city staff shall, in a pre-award compliance review, examine evidence of the past performance of the entity under review regarding compliance with the provisions of subsection (a) of this section which should include, but not be limited to the following factors: The record of the entity under review regarding observance of the City of Minneapolis contract compliance rules and regulations, the books, records, payrolls and other relevant documents including a list, separated by construction project or work site of all protected-class employees who worked for the entity under review during the period to be reviewed; documentary evidence of the implementation of each of the affirmative action standards set forth in the specifications and evidence demonstrating

whether or not the entity under review has complied with subsection (a)(1) of this section or similar equal employment opportunity clause in contracts with any other governmental body or any other entity. The director or director's designated city staff shall have thirty (30) days after receiving notice of the proposed contract to complete the pre-award compliance review and approve or disapprove the affirmative action plan.

(e) *Jurisdiction.* With regard to development contracts the jurisdiction of the city under this section shall extend for a period of three (3) years from the date of the development contract or until such longer period as may be stated in the development contract and shall include jurisdiction over owner-occupants of any project financed pursuant thereto.

Adopted 8/5/2011.

Absent - Colvin Roy.

Ordinance 2011-Or-068 amending Title 7, Chapter 141 of the Minneapolis Code of Ordinances relating to *Civil Rights: Administration and Enforcement*, amending Section 141.40 to substitute the protected class of affectional preference with the protected classes of sexual orientation and gender identity, was adopted 8/5/2011 by the City Council. A complete copy of this ordinance is available for public inspection in the office of the City Clerk.

The following is the complete text of the unpublished summarized ordinance.

ORDINANCE 2011-Or-068
By Lilligren
Intro & 1st Reading: 7/1/2011
Ref to: PSC&H
2nd Reading: 8/5/2011

Amending Title 7, Chapter 141 of the Minneapolis Code of Ordinances relating to Civil Rights: Administration and Enforcement.

The City Council of the City of Minneapolis do ordain as follows:

Section 1. That Section 141.40 of the above-entitled ordinance be amended to read as follows:

141.40. Substantive and procedural powers and duties of commission. The commission shall:

- (1) Seek to prevent and eliminate bias and discrimination because of race, color, creed, religion, ancestry, national origin, sex, ~~affectional preference~~ sexual orientation, gender identity, disability, age, marital status, status with regard to public assistance, or familial status by means of education, persuasion, conciliation and enforcement, mediation and the impartial resolution and adjudication of disputes, and utilize all the powers at its disposal to carry into execution the provisions of this title. The commission may obtain as part of mediation the administrative costs incurred by the commission in handling the complaint.
- (2) Conduct a program of research and study for the purpose of ascertaining how the objectives of this title may best be attained and sustained.
- (3) Publish results of such research and studies.
- (4) Advise the mayor, the city council and departments or agencies of government with respect to matters relating to the commission's purposes.

- (5) Cooperate with and seek to advise and coordinate the activities of persons or groups interested in the objectives of this title.
- (6) Receive, or on the basis of its own information, initiate, complaints alleging discrimination and conduct such investigations and inquiries as may reasonably appear necessary to find the facts with respect thereto.
- (7) Conduct public meetings and hearings, and gather and disseminate information to governmental agencies and to the public.
- (8) Utilize the records and services of municipal, state and federal governmental departments and agencies to the extent permitted by law, and pursuant to agreement with departments and agencies may refer matters for preliminary inquiry, conciliation, hearing and findings.
- (9) Furnish to any appropriate state or federal agency having jurisdiction in the premises a transcript of the proceedings and findings in any case in which the court of competent jurisdiction of the commission has, after hearing, found that any person has unlawfully discriminated.
- (10) Adopt and promulgate, pursuant to Chapter 14 of Minnesota Statutes, suitable rules and regulations for effectuating the purposes of this title. The procedure for adopting, amending, suspending or revoking rules shall be in the following manner: The commission shall hold a public hearing affording all interested parties an opportunity to participate; thirty (30) days' prior notice to the hearing shall be published once in the Minneapolis Star or Tribune newspaper and once in two (2) minority newspapers; free copies of the proposed rule shall be available to the public at the Minneapolis Department of Civil Rights; a tape recording or other transcription of the public hearing shall be made; after allowing written material to be submitted to the commission for twenty (20) days after the public hearing ends the commission shall meet to consider and take action; if the commission adopts the rule, it shall be submitted with the tape recording or other transcription of the public hearing to the city attorney who shall review the rule as to form and legality. The city attorney shall, within twenty (20) days, either approve or disapprove the rule. If the city attorney approves the rule, the city attorney shall promptly forward it to the city council for its approval, disapproval, amendment or referral back to the commission for further consideration; the city council shall so act within thirty (30) days of the referral from the city attorney; a rule approved or amended by the city council shall be filed in the office of the city clerk and shall be effective upon publication unless a later date is specified in the rule; if the city attorney disapproves the rule, the city attorney shall state in writing the reasons therefor and return the proposed rule to the commission. When the director has submitted to the commission any suggested rule or regulation which the commission, after six (6) months has not acted upon, the commission shall hold a public hearing and pass a resolution to either commence the procedures set out in this subdivision or refuse the suggested rule or regulation.

Adopted 8/5/2011.

Absent - Colvin Roy.

PSC&H - Your Committee recommends approval of the following appointments to the Minneapolis Advisory Committee on People with Disabilities for two-year terms to expire December 31, 2012:

Matthew Schuelka, Ward 6;

Donna Hemp, Ward 3.

Adopted 8/5/2011.

Absent - Colvin Roy.

PSC&H - Your Committee recommends approval of the following appointments to the Public Health Advisory Committee for two-year terms to expire December 31, 2012:

Abdullahi Sheikh, representing Ward 8;

Jonathan Hanft, Ward 9, Hennepin County Public Health.

Adopted 8/5/2011.

Absent - Colvin Roy.

The PUBLIC SAFETY, CIVIL RIGHTS & HEALTH and WAYS & MEANS/BUDGET Committees submitted the following reports:

PSC&H & W&M/Budget - Your Committee, having under consideration the Police Department and City Attorney's Office grant program as part of the Grants to Encourage Arrest Policies, now recommends that the proper City officers be authorized to execute a contract with the University of St. Thomas to provide conference facilities for the Police Department's presentation of the Minneapolis Coordinated Community Response to Domestic Violence. The conference costs are estimated to be under \$2,500 and will be paid from the grant program.

Adopted 8/5/2011.

Absent - Colvin Roy.

PSC&H & W&M/Budget - Your Committee, having under consideration the Police Department contract for community chaplaincy services, now recommends the following:

PSC&H - that the proper City officers be authorized to extend the contract with the Minneapolis Police Chaplain Corps for a two-year period, in the amount of \$125,000 annually, to provide chaplaincy and counseling services to Department staff and to families and the community following crimes of violence.

W&M/Budget - that said contract be **sent forward without recommendation.**

Glidden moved to substitute the following report for the above report. Seconded.

Adopted by unanimous consent.

Absent - Colvin Roy.

PSC&H & W&M/Budget - Your Committee, having under consideration the Police Department contract for community chaplaincy services, now recommends that the proper City officers be authorized to extend the contract with the Minneapolis Police Chaplain Corps for a one-year period (\$125,000 annually) to provide services to Department staff and to families and the community following crimes of violence.

Adopted 8/5/2011.

Absent - Colvin Roy.

PSC&H & W&M/Budget - Your Committee recommends that the proper City officers be authorized to execute a contract with Hennepin County to accept revenue, in an amount not to exceed \$200,000, for the Department of Health & Family Support to provide mental health services for North Minneapolis residents affected by the May tornado. Further, passage of the accompanying resolution appropriating \$200,000 to the Department of Health & Family Support.

Adopted 8/5/2011.

Absent - Colvin Roy.

RESOLUTION 2011R-392

By Samuels and Hodges

Amending The 2011 General Appropriation Resolution.

Resolved by The City Council of The City of Minneapolis:

That the above-entitled Resolution, as amended, be further amended by increasing the appropriation for the Department of Health & Family Support Agency in the Grants – Other Fund (01600-8600150) by \$200,000 and increasing the Revenue Estimate (01600-8600150-321507) by \$200,000.

Adopted 8/5/2011.

Absent - Colvin Roy.

PSC&H & W&M/Budget - Your Committee, having under consideration a request by the Department of Health & Family Support to accept license fees for use of the Department's "Multicultural Storytelling: A New Process for Community Engagement Toolkit", now recommends the following:

PSC&H - that the proper City officers be authorized to accept estimated revenue, in the amount of \$3,000, for end-use license agreements; and passage of the accompanying Resolution appropriating \$3,000 to the Department of Health & Family Support.

W&M/Budget - that the proper City officers be authorized to accept revenue from end-use license agreements, estimated at \$3,000; and passage of the accompanying Resolution increasing the revenue estimate and the expense appropriation in an amount consistent with actual receipt of this revenue.

Samuels moved that the report be amended to approve the Ways & Means/Budget Committee recommendation and to delete the Public Safety, Civil Rights & Health Committee recommendation. Seconded.

Adopted by unanimous consent.

Absent - Colvin Roy.

The report, as amended, was adopted 8/5/2011.

Absent - Colvin Roy.

RESOLUTION 2011R-393

By Hodges

Amending The 2011 General Appropriation Resolution.

Resolved by The City Council of The City of Minneapolis:

That the above-entitled Resolution, as amended, be further amended by increasing the revenue estimate and the expense appropriation in an amount consistent with actual receipt of revenue from license fees for use of the "Multicultural Storytelling: A New Process for Community Engagement Toolkit".

Adopted 8/5/2011.

Absent - Colvin Roy.

PSC&H & W&M/Budget - Your Committee recommends that the proper City officers be authorized to accept \$135,680 from the United States Department of Human Services, Health Resources and Services Administration for capital improvements for six school based clinic sites, to include clinical equipment to improve the quality of care, furnishings to make the sites more welcoming to teens, and to improve staff ergonomics and clinic flow. Further, passage of the accompanying resolution appropriating \$135,680 to the Department of Health & Family Support.

Adopted 8/5/2011.

Absent - Colvin Roy.

RESOLUTION 2011R-394

By Samuels and Hodges

Amending The 2011 General Appropriation Resolution.

Resolved by The City Council of The City of Minneapolis:

That the above-entitled Resolution, as amended, be further amended by increasing the appropriation for the Department of Health & Family Support Agency in the Grants – Federal Fund (01300-8600152) by \$135,680 and increasing the Revenue Estimate (01300-8600152-321007) by \$135,680.

Adopted 8/5/2011.

Absent - Colvin Roy.

PSC&H & W&M/Budget - Your Committee, having under consideration the provision of mental health services in the School Based Clinic Program, now recommends that the proper City officers be authorized to execute Amendment #2 to Contract #26407 with Hennepin County to accept an additional \$60,000, for a new contract total amount of \$150,000, to provide mental health services to Latino students and their families at Roosevelt High School. Further, passage of the accompanying resolution appropriating \$60,000 to the Department of Health & Family Support.

Adopted 8/5/2011.

Absent - Colvin Roy.

RESOLUTION 2011R-395
By Samuels and Hodges

Amending The 2011 General Appropriation Resolution.

Resolved by The City Council of The City of Minneapolis:

That the above-entitled Resolution, as amended, be further amended by increasing the appropriation for the Department of Health & Family Support Agency in the Grants – Other Fund (01600-8600152) by \$60,000 and increasing the Revenue Estimate (01600-8600152-322002) by \$60,000.

Adopted 8/5/2011.

Absent - Colvin Roy.

The REGULATORY, ENERGY & ENVIRONMENT Committee submitted the following reports:

RE&E - Your Committee, to whom was referred an ordinance amending Title 12, Chapter 244 of the Minneapolis Code of Ordinances relating to *Housing: Maintenance Code*, incorporating Minnesota Rule 4625 to provide clarity to the City's authority to inspect food, beverage, and lodging establishments under its delegation agreement with the Minnesota Department of Health, now recommends that said ordinance be given its second reading for amendment and passage.

Adopted 8/5/2011.

Absent - Colvin Roy.

Ordinance 2011-Or-069 amending Title 12, Chapter 244 of the Minneapolis Code of Ordinances relating to *Housing: Maintenance Code*, adding new Sections 244.1020, 244.1025, and 244.1030 to incorporate Minnesota Rule 4625 to provide clarity to the City's authority to inspect food, beverage, and lodging establishments under its delegation agreement with the Minnesota Department of Health, was adopted 8/5/2011 by the City Council. A complete copy of this ordinance is available for public inspection in the office of the City Clerk.

The following is the complete text of the unpublished summarized ordinance.

ORDINANCE 2011-Or-069
By Glidden
Intro & 1st Reading: 7/1/2011
Ref to: RE&E
2nd Reading: 8/5/2011

Amending Title 12, Chapter 244 of the Minneapolis Code of Ordinances relating to Housing: Maintenance Code.

The City Council of the City of Minneapolis do ordain as follows:

Section 1. That Chapter 244 of the Minneapolis Code of Ordinances be amended by adding thereto new Sections 244.1020 through 244.1030 to read as follows:

244.1020. State code incorporated. The Minnesota Lodging Code, Minnesota Rules, Chapter 4625, and amendments thereto, is hereby adopted by reference and is incorporated in this title as fully

as if set forth herein, subject to and including such portions as are supplemented by chapter 244, article X, rooming houses and lodging establishments, of this Code.

244.1025. More restrictive standards to apply. Where the conditions imposed by any provision of the housing maintenance code, article X rooming houses and lodging establishments, are either more restrictive or less restrictive than comparable conditions imposed by the Minnesota Lodging Code, or any other law, statute, rule, resolution, ordinance, or regulation of any kind, the regulations which are more restrictive or which impose higher standards or requirements shall govern.

244.1030. "Regulatory authority" defined for the code. Wherever the term "regulatory authority" is used in the Minnesota Lodging Code, or in chapter 244, article X, rooming houses and lodging establishments, it shall be held to mean the environmental health division of the city department of regulatory services.

Adopted 8/5/2011.

Absent - Colvin Roy.

RE&E - Your Committee, to whom was referred ordinances amending Title 10 of the Minneapolis Code of Ordinances relating to *Food Code*, updating the Code to be consistent with Minnesota Rule 4626, Minnesota Statute 157, and the City's authority to inspect food, beverage, and lodging establishments under its delegation agreement with the Minnesota Department of Health, now recommends that the following ordinance be given their second reading for amendment and passage:

- a) amending Chapter 186 relating to *In General*; and
- b) amending Chapter 188 relating to *Administration and Licensing*.

Adopted 8/5/2011.

Absent - Colvin Roy.

Ordinance 2011-Or-070 amending Title 10, Chapter 186 of the Minneapolis Code of Ordinances relating to *Food Code: In General*, amending Section 186.50 to updating the Code to be consistent with Minnesota Rule 4626, Minnesota Statute 157, and the City's authority to inspect food, beverage, and lodging establishments under its delegation agreement with the Minnesota Department of Health, was adopted 8/5/2011 by the City Council. A complete copy of this ordinance is available for public inspection in the office of the City Clerk.

The following is the complete text of the unpublished summarized ordinance.

ORDINANCE 2011-Or-070
By Glidden
Intro & 1st Reading: 7/1/2011
Ref to: RE&E
2nd Reading: 8/5/2011

Amending Title 10, Chapter 186 of the Minneapolis Code of Ordinances relating to the Food Code: In General.

The City Council of the City of Minneapolis do ordain as follows:

Section 1. That Section 186.50 of the above-entitled ordinance be amended to read as follows:

186.50. Definitions. All terms used in this title, unless expressly defined in this section, shall be interpreted as defined in the Minnesota Food Code, part 4626.0020, as they may be amended from time to time. The following terms shall have the following meanings:

Community kitchen refers to an approved facility licensed as a food manufacturer that may be used by licensed businesses for commercial purpose. A community kitchen may also be an unlicensed kitchen that is used by community members for cooking non-commercial or exempt foods or for cooking classes and/or other related activities.

Confectionery, as a license type, shall mean the class of food that shall include ready-to-eat, single-service, pre-packaged snack items and beverages including chips, pop, candy, crackers, cookies, pastries, popcorn, sandwiches, milk, yogurt, ice cream, cheese and/or microwavable single-service soups or entrees and similar items. Ready-to-eat, single serving fruits and vegetables prewashed by the supplier may be sold if the facility has a conveniently located hand wash sink. No packaging or re-packaging may occur on the premises. If the facility is equipped with an NSF-approved three-compartment ware-washing sink with two (2) drain boards, and a hand wash sink conveniently located in the ware-washing area, the following non-potentially hazardous food items may be sold: coffee and flavored specialty coffees dispensed from a self-service device, pastries in a self-service display case, and candies in bulk containers for self-service. Food products designed for home preparation are not permitted. A commercial grade self-service microwave oven for self-service reheating of purchased food items is permitted. Approved commercial refrigeration and freezers are required.

Critical item means a part of the Food Code that, if in noncompliance, is more likely than other violations to contribute to food contamination, illness, or environmental degradation and represent substantial public health hazards. The designation of a critical item shall be in conformance with the designation contained within Minnesota Rules, Chapter 4626, as they may be amended from time to time.

Food establishment shall be defined including Minnesota Rules 4626.0020 subpart 35(c), in addition to those facilities listed in Minnesota Rules 4626.0020 subpart 35(a) and (b).

Food manufacturer means a food service establishment with food preparation and service for carry-out, delivery, on-site dining with twelve (12) or fewer seats or a community kitchen.

Food market distributor means a vendor in a public or municipal market that is selling or reselling foods for off-site consumption.

Food market manufacturer means a vendor in a public or municipal market that is selling foods for immediate consumption.

Food shelf shall mean a food establishment operated by a nonprofit organization where food is collected, stored, or packaged for free distribution to individuals who qualify for food according to need.

Food stand shall mean a temporary food establishment operated in one (1) contiguous space by a single licensee and which complies with the guidelines for dispensing food under a short-term permit.

Imminent means impending or likely to develop without delay.

Institutional/congregate food service shall mean a food establishment that serves food primarily to a defined population in a congregate dining fashion and may include commercial child care centers, hospital cafeterias, public and private schools, senior independent living facilities, charitable dining halls, community food service or similar facilities. Institutional food service shall not mean home-based daycare businesses, establishments that operate with a city board and lodging license or food service operations at group homes, nursing homes, and veteran homes, etc. that are licensed at the county, state or federal level.

Mobile food vehicle means a food establishment preparing and/or serving foods from a self-contained vehicle, either motorized or within a trailer, on public sidewalks, curbside on the public streets, or on private property that is readily movable, without disassembling, for transport to another location.

Mobile food vehicle, limited means a food establishment serving only prepackaged, nonperishable or packaged confections curbside on the public streets from a self-contained motorized vehicle.

Non-critical item means a part of the Food Code that, if in noncompliance, is less likely than other violations to contribute to food contamination, illness, or environmental degradation and represent substantial public health hazards. The designation of a non-critical item shall be in conformance with the designation contained within Minnesota Rules, Chapter 4626, as they may be amended from time to time.

Perishable food is fresh fruit and fresh vegetables, such as, but not limited to, apples, bananas, oranges and grapefruit, lettuce, carrots, radishes, onions and potatoes.

Potentially hazardous food means a food that is natural or synthetic and is in a form capable of supporting:

- (1) The rapid and progressive growth of infectious or toxigenic microorganisms;
- (2) The growth and toxic production of *Clostridium botulinum*; or
- (3) In a raw shell eggs, the growth of *Salmonella enteritidis*.

Potentially hazardous food includes foods of animal origin that is raw or heat-treated, a food of plant origin that is heat-treated or consists of raw seed sprouts, cut melons, and garlic and oil mixtures that are not acidified or otherwise modified at a food processing plant in a way that results in mixtures that do not support growth.

Potentially hazardous food

(1) Potentially hazardous food means a food that is natural or synthetic and is in a form capable of supporting:

- a. The rapid and progressive growth of infectious or toxigenic microorganisms;
- b. The growth and toxic production of *Clostridium botulinum*; or
- c. In raw shell eggs, the growth of *Salmonella enteritidis*.

(2) Potentially hazardous food includes foods of animal origin that is raw or heat-treated, a food of plant origin that is heat-treated or consists of raw seed sprouts, cut melons, and garlic and oil mixtures that are not acidified or otherwise modified at a food processing plant in a way that results in mixtures that do not support growth as specified in item 1.

(3) Potentially hazardous food does not include:

- a. an air cooled hard-boiled egg with the shell intact;
- b. a food with an a(w) value of 0.85 or less;

- c. a food with a pH level of 4.6 or below when measured at 24 degrees Celsius (75 degrees Fahrenheit);
- d. a food, in an unopened hermetically sealed container, that is commercially processed to achieve and maintain commercial sterility under conditions of nonrefrigerated storage and distribution;
- e. a food for which laboratory evidence demonstrates that the rapid and progressive growth of infectious and toxigenic microorganisms or the growth of Salmonella enteritidis in eggs or Clostridium botulinum cannot occur, including a food that has an a(w) and pH that are above the levels specified in subitem (2) or (3) and that may contain a preservative, other barrier to the growth of microorganisms, or a combination of barriers that inhibit the growth of microorganisms; or
- f. a food that may contain an infectious or toxigenic microorganism or chemical or physical contaminant at a level sufficient to cause illness, but that does not support the growth microorganisms as specified in item 1.

Process review means evaluating the menu and processes to receive, store, prepare, cook, hold, cool, and serve food.

Restaurant means a food service establishment with food preparation and service for carry out, delivery or on-site dining with thirteen (13) or more seats.

Risk one (1) food establishment means a facility that serves potentially hazardous foods that require extensive processing on the premises, including manual handling, cooling, reheating or holding for service; or prepares foods several hours or days before service; or conducts specialized processing operations, such as curing, smoking, and reduced oxygen packaging; or serves food items that epidemiological experience has demonstrated to be common vehicle of foodborne illness. Examples include sit down full-service restaurants, and schools that prepare food on site.

Risk two (2) food establishment means a facility that serves potentially hazardous foods but with minimum holding time between preparation and service, and/or serves food such as pizza that require extensive handling following heat treatment. Examples include pizza sit-down or take-out restaurants, and sub shops.

Risk (1): High risk establishment means a public pool, or any food and beverage service establishment, hotel, motel, lodging establishment, or resort that:

- (1) serves potentially hazardous foods that require extensive processing on the premises including manual handling, cooling, reheating, or holding for service;
- (2) prepares foods several hours or days before service;
- (3) serves menu items that epidemiologic experience has demonstrated to be common vehicles of food-borne illness;
- (4) has a public swimming pool; or
- (5) draws its drinking water from surface water supply.

Risk (2): Medium risk establishment means a food and beverage service establishment, hotel, motel, lodging establishment, or resort that:

AUGUST 5, 2011

(1) serves potentially hazardous foods but with minimal holding between preparation and service; or

(2) serves foods, such as pizza, that require extensive handling followed by heat treatment.

Risk (3): Low risk establishment means a food and beverage service establishment, hotel, motel, lodging establishment, or resort that is not a Risk (1): high-risk or a Risk (2): medium risk establishment.

Risk three (3) food establishment is not a Risk 1 or 2. Examples include grocery items, donut shop, facility with limited food service.

Seasonal short-term food establishment is a person or sponsor who pays an annual fee to operate at multiple, approved short-term food events, such as fairs, carnivals, and community celebrations, and is an approved participant under the auspices and control of each such event. The seasonal short-term food establishment may sponsor multiple events within the area listed in section 188.480(e)(1) of this Code notwithstanding Minneapolis Park Board as a seasonal short-term permit holder.

Sell or sale is any transaction of a mercantile character.

Short-term food establishment is a food establishment operating for a period of fourteen (14) days or less operates no more than three (3) times annually for no more than ten (10) total days at fairs, community celebrations, carnivals, circuses, promotional food product events, sports events and the like.

Sidewalk cart food vendor shall mean a food establishment that is a nonmotorized vehicle self-propelled by the operator.

Unpackaged processed food means any processed food offered for sale from containers that permit a customer to dispense the food directly into packages, except produce offered for sale or food which is intended to be shelled.

Wholesome shall mean sound, healthful, clean, free from adulteration and in all ways fit for human food.

Adopted 8/5/2011.

Absent - Colvin Roy.

Ordinance 2011-Or-071 amending Title 10, Chapter 188 of the Minneapolis Code of Ordinances relating to *Food Code: Administration and Licensing*, amending Sections 188.80, 188.90, 188.100, 188.170, 188.550, and 188.560 to update the Code to be consistent with Minnesota Rule 4626, Minnesota Statute 157, and the City's authority to inspect food, beverage, and lodging establishments under its delegation agreement with the Minnesota Department of Health, was adopted 8/5/2011 by the City Council. A complete copy of this ordinance is available for public inspection in the office of the City Clerk.

The following is the complete text of the unpublished summarized ordinance.

ORDINANCE 2011-Or-071
By Glidden
Intro & 1st Reading: 7/1/2011
Ref to: RE&E
2nd Reading: 8/5/2011

Amending Title 10, Chapter 188 of the Minneapolis Code of Ordinances relating to Food Code: Administration and Licensing.

The City Council of the City of Minneapolis do ordain as follows:

Section 1. That Section 188.80 of the above-entitled ordinance be amended to read as follows:

188.80. Inspection of premises. The environmental health specialist/sanitarian shall inspect and examine every public and private market, stall, shop, store, warehouse, storehouse, cart, wagon, sleigh or other vehicle in, on or about which any such meat, fish, oysters, birds or fowls, vegetables, fruit, market or other provisions are kept, held or offered for sale as human food, as to the sanitary condition, cleanliness and wholesomeness of such places and vehicles for keeping human food for sale or other disposition or storage, and shall see to it that they are constantly maintained in a clean, wholesome and thoroughly sanitary condition. In case the inspector shall find any such place or vehicle to be in an unclean or unwholesome condition, the inspector shall notify the person in charge thereof to put it in a clean, wholesome and sanitary condition ~~within ten (10) hours from the time of such notice.~~

Section 2. That Section 188.90 of the above-entitled ordinance be amended to read as follow:

188.90. Inspection outside city. ~~(a) The manager of environmental health may inspect food establishments situated outside the city which sell or offer for sale or distribute any food within the city to determine if such food establishments conform to the provisions of this chapter. In addition to the license fee as established by this chapter a fee for such inspection service shall consist of the city salary for such environmental health representative for the number of hours necessarily spent for such inspection and the cost of travel from the office to the inspection site and return to the office at the current rate of reimbursement for car allowance mileage established by the city. Any food establishment located more than fifty (50) miles from the city will not be inspected unless authorized by the city council.~~

~~(b)~~(a) The manager of environmental health may permit the sale of food from food establishments outside the city without requiring an inspection by a representative of the environmental health division if local ordinances and reports from local or other responsible health authorities who have jurisdiction where such food establishments are located indicate comparable ordinance and inspection services to those in the city.

~~(e)~~(b) Food shipped interstate and subject to federal inspection by the Federal Food and Drug Administration, United States Public Health Service, or other federal agencies may likewise be sold within the city without an inspection of the place of origin by the manager of environmental health. Food from such sources shall be protected from contamination and spoilage during subsequent handling, packaging and storage, and while in transit.

Section 3, That Section 188.100 of the above-entitled ordinance be amended to read as follows:

188.100. Inspection, condemnation of food and food products. Said environmental health specialist/sanitarian shall visit at frequent intervals, as set out in Minnesota Statutes, section 157.20, Subd. 2, every public and private market, stall, shop, store, warehouse and storehouse and all carts, wagons, sleighs or other vehicles of vendors or street hawkers in, at or about which any meat, fish, oysters, birds or fowls, vegetables, fruit, milk or other food products are kept, held or carried for sale or other disposition as human food, and shall examine and carefully inspect all such food products. If any unhealthy, unwholesome or deleterious food products so intended for sale or other disposition as human food are found in or about any such place or vehicle, the environmental health specialist/sanitarian shall at once give the person in charge thereof notice to at once remove the same out of the city or to such place as the inspector shall direct, or to destroy the same; whereupon said person in charge shall remove the same out of the city or to such place as the environmental health specialist/sanitarian shall direct, or destroy the same as may be directed by the environmental health specialist/sanitarian.

Section 4. That Section 188.170 of the above-entitled ordinance be amended to read as follows:

188.170. Short-term food permits and seasonal short-term food permits. Short-term food permits for the sale of food and drink for a period of ~~less than fourteen (14) days~~ no more than three (3) times annually, for no more than ten (10) total days, at community celebrations, circuses, and other like and similar occasions, may be issued upon proper application and the payment of a fee as established in Appendix J, License Fee Schedule. A seasonal short-term food establishment ~~license~~ permit may be issued upon proper application and payment of a fee as established in Appendix J, License Fee Schedule. In the case of a short-term permit or a seasonal short-term food establishment, no more than two (2) food stands shall be allowed to operate per permit. The operation of short-term food establishments and seasonal short-term food establishments must be in conformity with the provisions of this chapter. The application for a short-term food permit will be considered late if not received by the department of licenses and consumer services ~~fourteen (14)~~ ten (10) or more days prior to the date of the event. A late fee equal to fifty (50) percent of the application fee will be charged to the applicant and must be received by the department of licenses and consumer services before the short-term permit is granted. A short-term food permit with more than ten (10) food vendors at an event may request a permit based on cost of inspection as determined by the manager of environmental health. Notwithstanding any other ordinance provision, the short-term food permit application and the seasonal short-term food establishment application shall be reviewed by the department of licenses and consumer services and approved or denied by the director of licenses and consumer services, or the director of licenses and consumer services' designee, with notice of the decision given to the council member representing the affected ward.

Section 5. That Section 188.550 of the above-entitled ordinance be and is hereby repealed.

~~**188.550. Minneapolis food manager certification program.** The manager certification program is established to ensure each food establishment has an individual in a supervisory capacity who has demonstrated, by passing an examination and obtaining a Minneapolis Food Manager Certificate, that he or she has knowledge and proficiency in the prevention of food borne illnesses, in the preparation and handling of food products in a clean and sanitary manner, and in approved sanitation practices and techniques for food establishments.~~

~~*Approved food manager's certification course* shall mean a course covering the material contained in the U.S. Environmental Health Division and Human Services, Food and Drug Administration's (F.D.A.) 1976 recommended food service ordinance. The following courses are pre-approved: Applied Food Service Sanitation by the Educational Foundation of the National Restaurant Association; Food Safety Through Quality Assurance Management by the Hospitality Institute of Technology and Management Incorporated, and food manager's certification courses conducted by Hennepin County Community Health Service. Organizations seeking approval for their food manager's certification course must apply to the Environmental Health Division and Family Support's Division of Environmental Health.~~

~~*Food manager certification examination* shall mean an examination administered by an approved agency authorized to conduct a food manager certification course in the preparation and handling of food products in a clean and sanitary manner, and approved sanitation practices and techniques for food establishments. Examples of an approved examination would be one given by the Education Foundation of the National Restaurant Association, Hospitality Institute of Technology and Management Incorporated, or Hennepin County Community Health Service.~~

~~*Minneapolis Food Managers Certificate* shall be the document issued by the Division of Environmental Health that certifies a person has satisfactory current knowledge of food service sanitation.~~

Section 6. That Section 188.560 of the above-entitled ordinance be amended to read as follows:

188.560. Minneapolis food manager certification requirements. Minneapolis food establishments must comply with the food manager certification requirements, as set out in Minnesota Rules, Chapter 4626.2000 to 4626.2525. In support and/or addition to the Minnesota Rules, All persons licensed to operate a food establishment under this chapter (except short-term food establishments) shall at all times employ at least one (1) full time person with supervisory responsibilities (which may be the licensee) who (1) spends a substantial amount of his/her work week at that food establishment, and (2) who has a current Minnesota Department of Health food manager certificate. A large establishment with more than one food preparation and service location under one (1) license, shall have a Minnesota Department of Health certified manager for each location.

A new licensee shall provide proof of certification before the facility is approved to open.

The licensee shall notify the city when the certified person leaves or terminates employment with the food establishment. A food establishment that no longer employs a certified manager shall employ a certified manager within thirty (30) days.

All establishments (except short-term food establishments and those exempted pursuant to rules adopted under the authority of the ordinance) shall maintain up-to-date written policies and guidelines on the premises. These policies and guidelines shall have been approved by the manager of environmental health and shall govern food handling and preparation, sanitation practices and techniques, personal hygiene including handwashing techniques, the prevention of food borne illness through proper receiving, storage, preparation, cooling and reheating of foods, and other related matters.

~~The manager of environmental health shall adopt rules to implement this ordinance. A copy of rules so adopted shall be forwarded to an appropriate committee for receipt and filing by the city council. The rules shall become effective thirty (30) days following receipt and filing unless disapproved by the city council or withdrawn by the manager.~~

~~Adopted 8/5/2011.~~

~~Absent - Colvin Roy.~~

RE&E - Your Committee, having under consideration the application of Cupcake Inc, dba Cupcake, 3338 University Av SE, for an On-Sale Wine Class D with Strong Beer License (new business) to expire April 1, 2012, and having held a public hearing thereon, now recommends that said license be granted, subject to the following conditions:

a) Cupcake Inc shall not allow more than 52 seats in their outdoor area at any time.

b) Final inspection and compliance with all provisions of applicable codes and ordinances.

Adopted 8/5/2011.

Approved by Mayor Rybak 8/8/2011.

(Published 8/10/2011)

RE&E - Your Committee, having under consideration the application of Watermark Entertainment LLC, dba Republic, 221 Cedar Av S, for an On-Sale Liquor Class C-2 with Sunday Sales License (upgrade of license) to expire January 1, 2012, and having held a public hearing thereon, now recommends that said license be granted, subject to final inspection and compliance with all provisions of applicable codes and ordinances.

Adopted 8/5/2011.

Absent - Colvin Roy.

RE&E - Your Committee, having under consideration the application of Into The Mystic Production Inc, dba Brave New Workshop, 824 Hennepin Av, for an On-Sale Liquor Class A with Sunday Sales License (new business) to expire April 1, 2012, now recommends that said license be granted, subject to final inspection and compliance with all provisions of applicable codes and ordinances.

Adopted 8/5/2011.

Absent - Colvin Roy.

RE&E - Your Committee recommends passage of the accompanying resolution granting the application of Envy Nightclub, 400 1st Av N, for an On-Sale Liquor Class A with Sunday Sales License, subject to conditions.

Adopted 8/5/2011.

Absent - Colvin Roy.

Resolution 2011R-396, granting the application of Envy Nightclub, 400 1st Av N, for an On-Sale Liquor Class A with Sunday Sales License, subject to conditions, was adopted 8/5/2011 by the City Council. A complete copy of this resolution is available for public inspection in the office of the City Clerk.

The following is the complete text of the unpublished summarized resolution.

RESOLUTION 2011R-396

By Glidden

Granting the application of Envy Nightclub, 400 1st Av N, for an On-Sale Liquor Class A with Sunday Sales License, subject to conditions.

Resolved by The City Council of The City of Minneapolis:

That it grants the application submitted by Grand Group Entertainment, dba Envy Nightclub, 400 1st Av N, for an On-Sale Liquor Class A with Sunday Sales License (new proprietor) to expire January 1, 2012, subject to the following conditions:

1. All aspects of the Police Department Security Plan Review shall be complied with at all times.
2. Any 16+ events held at Envy shall be private events wherein no alcohol will be sold, served, or accessible by any guest of the event.
3. No 18+ events shall be provided in the establishment unless the applicant notifies the 1st Precinct upon the booking of the event or at least 72 hours prior to the event, whichever is sooner. Those patrons under 21 years of age may attend social functions that are held in a portion of the establishment which is physically separated from areas which alcohol is sold.
4. The licensee shall collect all litter within 100 feet of the exterior of the licensed premises on a daily basis.
5. Noise coming from patrons of the establishment shall be managed consistent with the requirements of Chapter 389 of the Minneapolis Code of Ordinances.
6. Any patron under the age of 21 with any noticeable presence of alcohol in their system shall be refused entry and Minneapolis Police will be summoned to the scene.
7. During 18+ events, an identification card reader shall be employed to verify, along with visual inspection of the identification, the age of all patrons entering the establishment. The licensee shall have 90 days after the issuance of the liquor license to institute an identification card reader.
8. Employees of the licensee shall receive alcohol server training from an approved provider at least on an annual basis.
9. The licensee shall compile, maintain and share a "do not admit" list and video surveillance recordings for the previous 14 day period and provide them upon request to the 1st Precinct or any other official of the City of Minneapolis.
10. The licensee shall at all times keep an accurate occupancy count and immediately share such figures upon the request to any official of the City of Minneapolis.

11. The licensee will schedule and maintain adequate security beyond closing time to assist in effective dispersal of crowds from the sidewalk in front of the premises.

12. The licensee shall not permit employees to distribute handbills, flyers or business advertising cards to the public, or hire others to distribute handbills, flyers or business advertising cards, in or on any publicly owned street or sidewalk in the City of Minneapolis.

13. Final inspection and compliance with all provisions of applicable codes and ordinances.

Adopted 8/5/2011.

Absent - Colvin Roy.

RE&E - Your Committee recommends passage of the accompanying resolution approving Business License Operating Conditions relating to the Confectionery License held by Infinity Smokes, 814 Hennepin Av.

Adopted 8/5/2011.

Absent - Colvin Roy.

Resolution 2011R-397, approving Business License Operating Conditions relating to the Confectionery License held by Infinity Smokes, 814 Hennepin Av, was adopted 8/5/2011 by the City Council. A complete copy of this resolution is available for public inspection in the office of the City Clerk.

The following is the complete text of the unpublished summarized resolution.

RESOLUTION 2011R-397
By Glidden

Approving Business License Operating Conditions relating to the Confectionery License held by Infinity Smokes, 814 Hennepin Av.

Resolved by The City Council of The City of Minneapolis:

That it approves the following Business License Operating Conditions relating to the Confectionery License held by Infinity Smokes, 814 Hennepin Av:

1. No undisclosed financial or ownership interest exists or will exist in Infinity Smokes, Inc, dba Infinity Smokes.

2. Tariq Hamouda has sole control and authority over the business.

3. The licensee shall not employ any person who has had a felony-level criminal conviction related to the sale, purchase, acquisition, or distribution of tobacco or tobacco products, nor shall any person with such a tobacco-related felony-level criminal conviction possess any ownership, partnership, employment or beneficial interest whatsoever in the licensed establishment.

4. The licensee agrees to run criminal history records of all employees and provide those records to the Department of Licensing within a week of hiring.

5. The licensee agrees to place signage on both sides of his front door stating admittance for those under 18 is prohibited.

6. The licensee agrees to use stanchions to assist in keeping underage youth from accessing tobacco products. The stanchions will be in place within two weeks from the signing of the conditions letter.

7. All previously agreed upon conditions placed on the licensee's tobacco license shall continue to be enforced and are included in item 8 below.

8. The licensee agrees not to sell any items which are commonly used by drug users and drug dealers. These items include: Glass tubes (sometimes with roses inside), non-soap imbedded scrubbers such as Brillo or Chore Boys, small zip-lock type bags also known as jewelry bags, single razor blades, single use tobacco products, marijuana pipes, and cocaine grinders.

Adopted 8/5/2011.

Absent - Colvin Roy.

RE&E - Your Committee recommends passage of the accompanying resolution approving Business License Operating Conditions relating to the Food Manufacturer License held by Pizza Town, 1600 W Broadway.

Adopted 8/5/2011.

Absent - Colvin Roy.

Resolution 2011R-398, approving Business License Operating Conditions relating to the Food Manufacturer License held by Pizza Town, 1600 W Broadway, was adopted 8/5/2011 by the City Council. A complete copy of this resolution is available for public inspection in the office of the City Clerk.

The following is the complete text of the unpublished summarized resolution.

RESOLUTION 2011R-398
By Glidden

Approving Business License Operating Conditions relating to the Food Manufacturer License held by Pizza Town, 1600 W Broadway.

Resolved by The City Council of The City of Minneapolis:

That it approves the following Business License Operating Conditions relating to the Food Manufacturer License held by Pizza Town, 1600 W Broadway:

1. "No Trespassing" signs will remain clearly posted on the exterior of the business. Store staff will immediately ask people that are observed loitering in the immediate vicinity of the store to leave. If the loitering activity persists, staff will call 911 and request police assistance to alleviate the loitering activity. The business agrees to cooperate fully in the prosecution of criminal activity.

2. The business agrees to have a manager as listed on the application present during all hours of operation.

3. The business agrees to keep all exterior and interior lights illuminated and functioning properly.

4. The business agrees to notify business licensing prior to any future changes in the status or structure of leasing or ownership in the business.

5. The business agrees to be a food business only, where no retail items to include T-shirts, cell phones, or books will be sold.

6. The business agrees to clean the property and all areas within 100 feet of the property line of litter and trash regardless of its origin, a minimum of twice daily and as needed. The business shall maintain a litter receptacle in front of the business that is convenient for customer use.

7. Refuse shall be stored in a regularly serviced, closed container (dumpster) that shall be maintained screened from view as is required by Minneapolis Codes. At no time shall this refuse container be overfilled so that the cover cannot be completely closed at all times.

Adopted 8/5/2011.

Absent - Colvin Roy.

RE&E - Your Committee recommends passage of the accompanying resolution approving Business License Operating Conditions relating to the Solicitor - Company License held by Vivint Inc, 4931 N 300 West, Provo, Utah.

Adopted 8/5/2011.

Absent - Colvin Roy.

Resolution 2011R-399, approving Business License Operating Conditions relating to the Solicitor - Company License held by Vivint Inc, 4931 N 300 West, Provo, Utah, was adopted 8/5/2011 by the City Council. A complete copy of this resolution is available for public inspection in the office of the City Clerk.

The following is the complete text of the unpublished summarized resolution.

RESOLUTION 2011R-399

By Glidden

Approving Business License Operating Conditions relating to the Solicitor - Company License held by Vivint Inc, 4931 N 300 West, Provo, Utah.

Resolved by The City Council of The City of Minneapolis:

That it approves the following Business License Operating Conditions relating to the Solicitor - Company License held by Vivint Inc, 4931 N 300 West, Provo, Utah:

1. No solicitation shall be made at residences before 8 a.m. or after 8 p.m.
2. Each installation shall be conducted by a Licensed Power Limited technician or an Unlicensed Power Limited technician registered with the State of Minnesota and those individuals are bona fide (W-2) employees of your company.
3. For each sale, the City "Solicitation Checklist" form shall be completed with one copy returned to this office.
4. If at any time you begin to sell or assign monitoring contracts to any other company, that company must be registered to do business in the State of Minnesota and have a Minnesota Tax ID number.
5. No alarm contract may automatically renew for more than one month.
6. The entire cancellation option statement shall be in 10 point type at a minimum as required by Minnesota Statutes 325G.08 (b) and (c). The "Right to Cancel" section shall be perforated for easy separation from contract.
7. The company shall operate the alarm system in test mode only for the first seven days to assure appropriate installation and use of the system as required by Minneapolis ordinance Chapter 176, unless the customer elects to waive this option by checking the box on the Compliance Checklist stating they currently have an alarm system and do not require training.
8. Any customer over the age of 75 shall have the right to cancel his contract within 30 days of the date of the transaction.
9. All employees will wear a distinct uniform shirt identifying them with Vivint Inc. with no reference to other businesses or organizations.
10. Any and all additional charges not relating to the installation, activation, and monitoring agreement will be disclosed to the customer prior to the signing of the contract. This would include but is not limited to additional equipment, additional activation, monitoring fees, home automation, energy management or advanced interactive text and web alert.
11. Employees will not engage in misconduct, misrepresentation, fraud or deceit. Employees shall not claim any partnership or endorsement relationship with the Minneapolis Police or Fire Departments, the City of Minneapolis, or any other entity for which an explicit partnership or endorsement relationship does not exist. Employees shall not initiate any discussions or sales pitches regarding or referencing the death or potential death of a spouse, family, or household member.
12. Vivint Inc. shall also comply with all the requirements listed in the attached consent order issued by the State of Minnesota Commissioner of Labor and Industry while operating under the name APX Alarm Security Solutions, Inc., dated June 19, 2009.

Adopted 8/5/2011.

Absent - Colvin Roy.

RE&E - Your Committee recommends passage of the accompanying resolution granting applications for Liquor, Wine and Beer Licenses.

Adopted 8/5/2011.

Absent - Colvin Roy.

Resolution 2011R-400, granting applications for Liquor, Wine and Beer Licenses, was adopted 8/5/2011 by the City Council. A complete copy of this resolution is available for public inspection in the office of the City Clerk.

The following is the complete text of the unpublished summarized resolution.

RESOLUTION 2011R-400
By Glidden

Granting Liquor, Wine and Beer Licenses.

Resolved by The City Council of The City of Minneapolis:

That the following applications for liquor, wine and beer licenses be granted, subject to final inspection and compliance with all provisions of applicable codes and ordinances (Petn No 275099):

Off-Sale Liquor, to expire April 1, 2012

Cedar Riverside Liquor Store Inc, dba Cedar Riverside Liquor Store, 619 Cedar Av S

Medich Ventures Inc, dba Valu Liquors, 901 Washington Av SE

Off-Sale Liquor, to expire July 1, 2012

Sorella Wine & Spirits Inc, dba Sorella Wine & Spirits, 1010 Washington Av S

On-Sale Liquor Class A with Sunday Sales, to expire July 1, 2012

Inception Entertainment LLC, dba Bootleggers, 323 1st Av N

Varsity Arts LLC, dba Varsity Theater, 1308 4th St SE

Minneapolis Branch American Association of University Women, dba Gale Mansion, 2115 Stevens

Av

Midwest Latino Entertainment & Talent, dba El Nuevo Rodeo Restaurant, 2709 E Lake St

On-Sale Liquor Class A with Sunday Sales, to expire August 6, 2011

Old Chicago of Colorado Inc, dba Old Chicago, 2841 Hennepin Av (temporary expansion Uptown Art Fair, August 5 & 6, 2011, 7:00 p.m. to 11:00 p.m.)

On-Sale Liquor Class B with Sunday Sales, to expire April 1, 2012

Stardust Lanes Inc, dba Memory Lanes, 2520 26th Av S

On-Sale Liquor Class B with Sunday Sales, to expire July 1, 2012

Loring Pasta Bar LLC, dba Loring Pasta Bar, 327 14th Av SE

Hard Rock Cafe International (USA) Inc, dba Hard Rock Cafe, 600 Hennepin Av #100

One Eyed Dog Ltd, dba Triple Rock, 629 Cedar Av S

Foshay Hotel LLC, dba W Minneapolis - The Foshay, 821 Marquette Av

D'Amico Holding Company Inc, dba D'Amico Kitchen, 901 Hennepin Av

Joint/Caboose Operations LLC, dba Joint/Caboose, 913 Cedar Av S

Toro Restaurant LLC, dba Barrio, 925 Nicollet Mall

OJS LLC, dba Loring Kitchen and Bar, 1359 Willow St

FH Bill Inc, dba Corner Bar (The), 1501 Washington Av S

Hexagon Inc, dba Hexagon, 2600 27th Av S

Noras Calhoun Inc, dba Tryg's, 3118 W Lake St

On-Sale Liquor Class E with Sunday Sales, to expire April 1, 2012

Oceanaire Minneapolis Restaurant Com, dba Oceanaire Seafood Room, 1300 Nicollet Mall, Hyatt

Regency

On-Sale Liquor Class E with Sunday Sales, to expire July 1, 2012

Largo Enterprises Inc, dba Whitey's World Famous Saloon, 400 E Hennepin Av

Complete Beverage Service Inc, dba Darby O'Ragens, 401 3rd St N

Woman's Club of Minneapolis, dba Woman's Club of Minneapolis, 410 Oak Grove St

FCA Restaurant Company LLC, dba Zahtar, 615 2nd Av S

Bar La Grassa LLC, dba Bar La Grassa, 800 Washington Av N, #102

RCSH Operations Inc, dba Ruth's Chris Steakhouse, 920 2nd Av S, Suite 100

Philip Wong Inc, dba Red Dragon, 2116 Lyndale Av S

Capital Runner, LLC, dba Lyndale (The), 2937 Lyndale Av S

Thao Brothers LLC, dba Sushi Tango, 3001 Hennepin Av

Al Vento Incorporated, dba Al Vento, 5001 34th Av S

On-Sale Liquor Class E, to expire July 1, 2012

Sanctuary Restaurant LLC, dba Sanctuary Restaurant, 903 Washington Av S

On-Sale Wine Class A with Strong Beer, to expire April 1, 2012

Old Arizona Studio Inc, dba Old Arizona, 2821 Nicollet Av (Theater does not have a food requirement)

On-Sale Wine Class E with Strong Beer, to expire April 1, 2012

Nguyen-Vu Family Corp Inc, dba Saigon Uptown Restaurant, 3035 Lyndale Av S

Temporary On-Sale Beer

Polish National Catholic Church, dba Polish National Catholic Church, 420 22nd Av NE (Fundraiser July 30, 2011, 11:00 a.m. to 6:00 p.m.).

Adopted 8/5/2011.

Absent - Colvin Roy.

RE&E - Your Committee recommends passage of the accompanying resolution granting applications for Business Licenses.

Adopted 8/5/2011.

Absent - Colvin Roy.

Resolution 2011R-401, granting applications for Business Licenses, was adopted 8/5/2011 by the City Council. A complete copy of this resolution is available for public inspection in the office of the City Clerk.

The following is the complete text of the unpublished summarized resolution.

RESOLUTION 2011R-401

By Glidden

Granting applications for Business Licenses.

Resolved by The City Council of The City of Minneapolis:

That the following applications for business licenses (including provisional licenses) as per list on file and of record in the Office of the City Clerk under date of August 5, 2011 be granted, subject to final inspection and compliance with all provisions of the applicable codes and ordinances (Petn No 275099):

Dry Cleaner - Non-Flammable; Food Market Distributor; Farm Produce Permits; Grocery; Food Manufacturer; Restaurant; Short-Term Food Permit; Seasonal Short Term Food; Sidewalk Cafe; Motor Vehicle Dealer - Used Only; Motor Vehicle Dealer - Additional Lot; Motor Vehicle Used Parts Dealer; Pet Shop; Plumber; Precious Metal Dealer; Residential Specialty Contractor; Secondhand Goods Class A; Secondhand Goods Class B; Antique Dealer Class A; Antique Dealer Class B; Antique Mall Operator Class B; Taxicab Vehicle Fuel Efficient; Taxicab Vehicle Wheelchair Access; Taxicab Vehicle; Taxicab Vehicle Non-Transferable; Tobacco Dealer.

Adopted 8/5/2011.

Absent - Colvin Roy.

RE&E - Your Committee recommends passage of the accompanying resolution granting applications for Gambling Licenses.

Adopted 8/5/2011.

Absent - Colvin Roy.

Resolution 2011R-402, granting applications for Gambling Licenses, was adopted 8/5/2011 by the City Council. A complete copy of this resolution is available for public inspection in the office of the City Clerk.

The following is the complete text of the unpublished summarized resolution.

RESOLUTION 2011R-402

By Glidden

Granting applications for Gambling Licenses.

Resolved by The City Council of The City of Minneapolis:

That the following applications for gambling licenses be granted, subject to final inspection and compliance with all provisions of applicable codes and ordinances (Petr No 275099):

Gambling Exempt

Children's Theatre Company, dba Children's Theatre Company, 2400 3rd Av S (Raffle September 10, 2011, Childrens Theatre)

Jewish Family and Children's Service, dba Jewish Family and Childrens Service, 13100 Wayzata Blvd, Minnetonka (Raffle December 3, 2011, Hilton, 1001 Marquette Av S).

Adopted 8/5/2011.

Absent - Colvin Roy.

RE&E - Your Committee recommends passage of the accompanying resolution approving License Settlement Conference recommendations relating to the Food Manufacturer License held by A Slice of New York, 2407 Nicollet Av.

Adopted 8/5/2011.

Absent - Colvin Roy.

Resolution 2011R-403, approving License Settlement Conference recommendations relating to the Food Manufacturer License held by A Slice of New York, 2407 Nicollet Av, was adopted 8/5/2011 by the City Council. A complete copy of this resolution is available for public inspection in the office of the City Clerk.

The following is the complete text of the unpublished summarized resolution.

RESOLUTION 2011R-403

By Glidden

Approving License Settlement Conference recommendations relating to the Food Manufacturer License held by A Slice of New York, 2407 Nicollet Av.

Whereas, the Licenses & Consumer Services Division held a License Settlement Conference hearing on May 23, 2011 with the licensee; and

Whereas, the Regulatory, Energy & Environment Committee received Findings of Fact, Conclusions and Recommendations that concluded that the licensee violated the Minneapolis Code of Ordinances by:

- a) failure to pay citations in a timely manner; and
- b) failure to comply with the Minneapolis Environmental Code in a timely manner;

Now, Therefore, Be It Resolved by The City Council of The City of Minneapolis:

That the following recommendations be adopted, as more fully set forth in said Findings on file in the Office of the City Clerk and made a part of this report by reference:

1. The fines will be paid by September 1, 2011 as follows:

a) The fines issued by Licensing & Consumer Services, in the amount of \$2,800, will be reduced to \$700.

b) The first fine issued by Environmental Health, in the amount of \$800, will be reduced to \$200.

c) The second fine issued by Environmental Health, in the amount of \$800, will remain at \$800.

It will be stayed, however, if Mr. Hassan satisfactorily completes a qualified certified food manager program.

2. A Slice of New York also must not utilize a gyro machine until the proper vent system is installed, the front counter must be upgraded with approved materials, a three compartment sink must be installed, a mop sink must be installed, and a food prep sink must be installed unless all produce that is used comes pre-washed. A Slice of New York must also provide a letter of agreement to Environmental Health that only pre-washed produce will be coming in to their facility. They will also provide a list of what produce they will use and who their supplier(s) are.

Adopted 8/5/2011.

Absent - Colvin Roy.

RE&E - Your Committee recommends passage of the accompanying resolution approving License Settlement Conference recommendations relating to the Off-Sale Liquor License held by Ken and Norm's Liquor, 4801 Chicago Av.

Adopted 8/5/2011.

Absent - Colvin Roy.

Resolution 2011R-404, approving License Settlement Conference recommendations relating to the Off-Sale Liquor License held by Ken and Norm's Liquor, 4801 Chicago Av, was adopted 8/5/2011 by the City Council. A complete copy of this resolution is available for public inspection in the office of the City Clerk.

The following is the complete text of the unpublished summarized resolution.

RESOLUTION 2011R-404

By Glidden

Approving License Settlement Conference recommendations relating to the Off-Sale Liquor License held by Ken and Norm's Liquor, 4801 Chicago Av.

Whereas, the Licenses & Consumer Services Division held a License Settlement Conference hearing on June 28, 2011 with the licensee; and

Whereas, the Regulatory, Energy & Environment Committee received Findings of Fact, Conclusions and Recommendations that concluded on two separate occasions on a period of less than 24 months, employees of Ken & Norm's Liquor sold alcohol to persons under the age of 21 in violation of the Minneapolis Code of Ordinances, Minnesota Statutes, and the established compliance check policy and procedures of the City of Minneapolis; and the licensee having paid the associated administrative fines;

Now, Therefore, Be It Resolved by The City Council of The City of Minneapolis:

That the following recommendations be adopted, as more fully set forth in said Findings on file in the Office of the City Clerk and made a part of this report by reference:

1. The City of Minneapolis will impose a sanction, in the amount of \$1,500, for failing two alcohol compliance checks for sales to minors: \$1,000 of the sanction will be stayed for a period of 12 months pending no further instances of a violation of the sale of alcohol to a person under the age of 21. The remaining \$500 sanction must be paid upon signature of this agreement.

2. The licensee agrees to implement and maintain a comprehensive alcohol sales policy. This policy is to include the following:

a) Signs limiting the sale of alcohol to persons above the age of 21 shall be posted at the entrance door and the cash register.

b) All employees will take annual alcohol server training within 30 days of the start of their employment.

c) The business agrees that they will establish a program to complete in-house compliance checks for the sale of alcohol to minors.

d) The business employee manual will require an immediate termination policy for serving alcohol to a minor.

e) The business will purchase and use a calendar that shows day by the day date when an individual reaches the age of 21.

Adopted 8/5/2011.

Absent - Colvin Roy.

RE&E - Your Committee recommends passage of the accompanying resolution approving License Settlement Conference recommendations relating to the Restaurant License held by Plan B Coffeehouse, 2717 Hennepin Av.

Adopted 8/5/2011.

Absent - Colvin Roy.

Resolution 2011R-405, approving License Settlement Conference recommendations relating to the Restaurant License held by Plan B Coffeehouse, 2717 Hennepin Av, was adopted 8/5/2011 by the City Council. A complete copy of this resolution is available for public inspection in the office of the City Clerk.

The following is the complete text of the unpublished summarized resolution.

RESOLUTION 2011R-405

By Glidden

Approving License Settlement Conference recommendations relating to the Restaurant License held by Plan B Coffeehouse, 2717 Hennepin Av.

Whereas, the Licenses & Consumer Services Division held a License Settlement Conference hearing on July 8, 2011 with the licensee; and

Whereas, the Regulatory, Energy & Environment Committee received Findings of Fact, Conclusions and Recommendations that concluded that the licensee violated the Minneapolis Code of Ordinances by:

- a) failure to pay fines in a timely manner to the Environmental Health Division; and
- b) failure to comply with the Minneapolis Environmental Health Code in a timely manner;

Now, Therefore, Be It Resolved by The City Council of The City of Minneapolis:

That the following recommendations be adopted, as more fully set forth in said Findings on file in the Office of the City Clerk and made a part of this report by reference:

1. The plans for renovation of the business at 2717 Hennepin Avenue will be submitted to Environmental Health Inspector Ryan Krick by July 11, 2011.

2. The renovation project must begin by August 1, 2011.

3. Pay \$1,000 of the \$2,000 in fines by August 1, 2011. The remaining \$1,000 in fines will be stayed if the renovation is completed by September 1, 2011.

4. Ms. Jones must submit a document to Environmental Health from Kowalski's Supermarket verifying that the produce she brings in to her business is pre-washed at Kowalski's. The documentation should list what types of produce come pre-washed from Kowalski's. The documentation should be on Kowalski's letterhead and state the name and address of Plan B Coffee shop as the recipient. This documentation must be submitted to Kathy Loudon by August 1, 2011.

Adopted 8/5/2011.

Absent - Colvin Roy.

The REGULATORY, ENERGY & ENVIRONMENT and WAYS & MEANS/BUDGET Committees submitted the following report:

RE&E & W&M/Budget - Your Committee recommends acceptance of the following bids:

a) low responsive bid received on OP #7448 submitted by Able Energy Corporation, for an estimated expenditure of \$186,895.52, to furnish and deliver all labor, materials, equipment and incidentals necessary to complete a 39kW - 40kW Photovoltaic System Installation at the Currie Maintenance Facility for the Minneapolis Finance Property Services Division.

b) low bid of Able Energy Corporation, for an estimated expenditure of \$415,650.85, to furnish and deliver all labor, materials, equipment, and incidentals necessary to complete a 100kW - 110kW Photovoltaic System Installation at the Royalston Maintenance Facility for the Minneapolis Finance Property Services Division.

Your Committee further recommends that the proper City officers be authorized to execute contracts for said projects, all in accordance with specifications prepared by Westwood Professional Service.

Adopted 8/5/2011.

Absent - Colvin Roy.

The TRANSPORTATION & PUBLIC WORKS Committee submitted the following reports:

T&PW - Your Committee, having under consideration the reconstruction of 33rd Ave SE between E Hennepin Ave and Como Ave SE, now recommends that the proper City officers be authorized to negotiate with private property owners to acquire permanent sidewalk easements and additional right-of-way if needed for the project.

Your Committee further recommends passage of the accompanying resolution directing the City Engineer to proceed with a variance request from State Aid Rules to permit the reconstruction of 33rd Ave SE with less than minimum vertical curve lengths.

Adopted 8/5/2011.

Absent - Colvin Roy.

Resolution 2011R-406, directing the City Engineer to proceed with a variance request from State Aid Rules for the reconstruction of 33rd Ave SE between E Hennepin Ave and Como Ave SE, was adopted 8/5/2011 by the City Council. A complete copy of this resolution is available for public inspection in the office of the City Clerk.

The following is the complete text of the unpublished summarized resolution.

RESOLUTION 2011R-406

By Colvin Roy

Directing the City Engineer to proceed with a variance request from State Aid Rules per Administrative Variance to State Aid Operations Rules, Chapter 8820 effective October 1, 2007, to the Minnesota Commissioner of Transportation for the reconstruction of 33rd Ave SE between E Hennepin Ave and Como Ave SE.

Whereas, the City of Minneapolis wishes to reconstruct 33rd Ave SE between E Hennepin Ave and Como Ave SE; and

Whereas, Minnesota Department of Transportation State Aid Rule 8820.9936 (Design Standards, Urban; New or Reconstruction Projects) per Administrative Variance to State Aid Operation Rules, Chapter 8820, effective October 1, 2007, require "Minimum lengths of crest and sag vertical curves"; and

Whereas, the design chart has minimum vertical curve lengths developed from AASHTO's *A Policy on Geometric Design of Highways and Streets Manual*; and

Whereas, physical constraints, existing railroad crossing, and property access limit vertical curve lengths of 33rd Ave SE between E Hennepin Ave and Como Ave SE; and

Whereas, State Aid Rules provide that a political subdivision may request a variance from the Rules;

Now, Therefore, Be It Resolved by The City Council of The City of Minneapolis:

That the City Engineer is hereby directed to submit to the Commissioner of Transportation a formal request for variance from Mn/DOT State Aid Rule 8820.9936 per Administrative Variance to State Aid Operations Rules, Chapter 8820, effective October 1, 2007, to permit the reconstruction of 33rd Ave

SE from E Hennepin Ave and Como Ave SE with less than minimum vertical curve lengths as required by Rule 8820.9936.

Adopted 8/5/2011.

Absent - Colvin Roy.

T&PW - Your Committee, having under consideration a special assessment deferment application submitted by:

Kathryn F. McCann (Disabled Citizen) to defer the special assessments (Levy 01027, Project 51930) for street resurfacing in the original principal amount of \$1,107.32 for payable 2011 and subsequent years, and (Levy 01052, Project 07S05) for a sidewalk repair with a remaining principal balance of \$179.21 for payable 2011 and subsequent years on the property located at 116 59th St W, PID 22-028-24-31-0067, legal description: The W 37 ft of Lot 4 and the E 10 ft of Lot 5, Block 2, "Kesler Addition to Minneapolis",

now recommends that the application be approved as provided for in Minnesota Statutes Sections 435.193 through 435.195 and Council Resolutions 80R-365 passed August 8, 1980 and 93R-134 passed April 16, 1993.

Adopted 8/5/2011.

Absent - Colvin Roy.

T&PW - Your Committee recommends acceptance of the invitation from the Hennepin County Regional Rail Authority to become a formal cooperating agency partner on The Interchange Project with the understanding that:

a) City staff will have a strong role in developing, reviewing, and participating in upcoming Requests for Qualifications, Requests for Proposals, and public engagement activities; and

b) The public will be engaged in finalizing the design elements that are not "fixed technical required elements" -- i.e., the aesthetic design/landscape of the public space.

Adopted 8/5/2011.

Absent - Colvin Roy.

T&PW - Your Committee, having under consideration an application for a large block event permit for the 48th Annual Uptown Art Fair, to be held August 5 through August 7, 2011, now recommends that the block event be allowed to operate outside the time frame allowed under Title 17, Chapter 455 of the Minneapolis Code of Ordinances relating to *Streets and Sidewalks: Block Events*.

Adopted 8/5/2011.

Absent - Colvin Roy.

T&PW - Your Committee, having under consideration the Van White Memorial Bridge Project, now recommends acceptance of the project cost estimate, as set forth in Petn No 275103.

Your Committee further recommends that the proper City officers be authorized to bid the project under a revised construction scenario.

Adopted 8/5/2011.

Absent - Colvin Roy.

The TRANSPORTATION & PUBLIC WORKS and WAYS & MEANS/BUDGET Committees submitted the following reports:

T&PW & W&M/Budget - Your Committee recommends that the proper City officers be authorized to execute a contract with Duncan Parking Technologies, Inc. for citation writing technology for an amount not to exceed \$800,000 for a three-year term with two additional one-year renewal options.

Adopted 8/5/2011.

Absent - Colvin Roy.

T&PW & W&M/Budget - Your Committee recommends that the proper City officers be authorized to amend Contract C-25183 (SP 141-091-03) with the Minnesota Department of Transportation, increasing the contract by \$100,000, in order to extend the Minneapolis Bike Walk Ambassador Program through November 30, 2011. Funding for the extension is being provided by the Non-Motorized Transportation Pilot Program.

Your Committee further recommends passage of the accompanying resolution increasing the appropriation for the Minneapolis Bike Walk Ambassador Program by \$100,000.

Adopted 8/5/2011.

Absent - Colvin Roy.

RESOLUTION 2011R-407
By Colvin Roy and Hodges

Amending The 2011 Capital Improvement Appropriation Resolution.

Resolved by The City Council of The City of Minneapolis:

That the above-entitled resolution, as amended, be further amended by increasing the appropriation for the PW-Transportation Capital Agency in the Grants-Federal Fund (01300-9010943-G3901AMBYR3) by \$100,000 and increasing the revenue source (01300-9010943-321900) by \$100,000, to be reimbursed from the Non-Motorized Transportation Pilot Program (SP 141-091-03).

Adopted 8/5/2011.

Absent - Colvin Roy.

T&PW & W&M/Budget - Your Committee recommends acceptance of the low responsive bid submitted to the Public Works Department on OP No 7465 from ABM Equipment and Supply, LLC, in the amount of \$229,026.00, to furnish and deliver three (3) MSW Refuse Packer Bodies to the Public Works Solid Waste and Recycling Division.

Your Committee further recommends that the proper City officers be authorized and directed to execute a contract for said service, all in accordance with City specifications and contingent upon approval of the Civil Rights Department.

Adopted 8/5/2011.

Absent - Colvin Roy.

The WAYS & MEANS/BUDGET Committee submitted the following reports:

W&M/Budget - Your Committee recommends passage of the accompanying resolution authorizing the settlement of legal matters, as recommended by the City Attorney.

Adopted 8/5/2011.

Absent - Colvin Roy, Hofstede.

Resolution 2011R-408, authorizing settlement of *Auto-Owners Insurance Co. v. City of Minneapolis*, was adopted 8/5/2011 by the City Council. A complete copy of this resolution is available for public inspection in the office of the City Clerk.

The following is the complete text of the unpublished summarized resolution.

RESOLUTION 2011R-408
By Hodges

Authorizing legal settlement.

Resolved by The City Council of The City of Minneapolis:

That the City Attorney is authorized to proceed with the settlement of *Auto-Owners Insurance Co. v. City of Minneapolis*, by payment of \$6,047.45 to Auto-Owners Insurance Co., from the Internal Service Self Insurance Fund (06900-1500100-145685).

Further, authorize the City Attorney's Office to execute any documents necessary to effectuate the settlement.

Adopted 8/5/2011.

Absent - Colvin Roy, Hofstede.

W&M/Budget - Your Committee recommends approval of the September 2011 utility billing insert on behalf of the Community Planning & Economic Development Department and the Center for Energy and Environment providing information about Community Energy Services, a program for home energy efficiency.

Adopted 8/5/2011.

Absent - Colvin Roy, Hofstede.

W&M/Budget - Your Committee recommends that the proper City officers be authorized to issue a Request for Proposals (RFP) for Public Artist(s) for the Nicollet Avenue Reconstruction; and direct execution of an agreement with the selected artist, for an amount not to exceed \$150,000.

Adopted 8/5/2011.

Absent - Colvin Roy, Hofstede.

W&M/Budget - Your Committee recommends that the proper City officers be authorized to negotiate terms and execute a 3-year contract for debt collection services with two (2) separate companies, I.C. System, Inc. and Harris & Harris, LTD; contract amounts not to exceed \$100,000 per company.

Adopted 8/5/2011.

Absent - Colvin Roy, Hofstede.

W&M/Budget - Your Committee recommends passage of the accompanying resolution requesting property tax relief under Minnesota Statutes for property damaged by the May 22, 2011 North Minneapolis tornado.

Adopted 8/5/2011.

Absent - Colvin Roy, Hofstede.

Resolution 2011R-409, requesting property tax relief under Minnesota Statutes, sections 273.1231 through 273.1235, for property damaged by the disaster that occurred on May 22, 2011, was adopted 8/5/2011 by the City Council. A complete copy of this resolution is available for public inspection in the office of the City Clerk.

The following is the complete text of the unpublished summarized resolution.

RESOLUTION 2011R-409

By Hodges

Requesting Tax Relief for Damaged/Destroyed Property.

Whereas, the City of Minneapolis experienced a disaster on Sunday May 22, 2011; and

Whereas, said disaster did cause extensive property damage to buildings in the City of Minneapolis; and

Whereas, the City of Minneapolis has been declared a disaster area by a Declaration of a Local Emergency declared pursuant to Minnesota Statutes, section 12.29 and City ordinance (MCO 128.50) and by Presidential Declaration (DR 1990); and

Whereas, Minnesota Statutes, sections 273.1231 through 273.1235, provides for tax relief for properties damaged by a disaster upon application to the Governor of the State of Minnesota and the State Executive Council; and

Whereas, the minimum requirements of the aforementioned statutes have been met;

Now, Therefore, Be It Resolved by The City Council of The City of Minneapolis:

That the City of Minneapolis does hereby request property tax relief under Minnesota Statutes, sections 273.1231 through 273.1235, for property damaged by the disaster that occurred on May 22, 2011.

Adopted 8/5/2011.

Absent - Colvin Roy, Hofstede.

The ZONING & PLANNING Committee submitted the following reports:

Z&P - Your Committee, having under consideration the appeal filed by David Edquist of Holiday Stationstores from the decision of the Planning Commission a) placing a condition on the granting of an application for a conditional use permit to allow a dynamic sign for an existing automobile convenience facility requiring the dynamic sign to be located on a monument sign; and b) denying a variance to sign type to allow a dynamic sign on an existing pole sign, at 2322 Washington Ave N, now recommends, notwithstanding the recommendation of staff, that said appeal be granted.

Adopted 8/5/2011.

Absent - Colvin Roy.

Lilligren assumed the chair.

Z&P - Your Committee, having under consideration the appeal filed by David Edquist of Holiday Stationstores from the decision of the Planning Commission a) placing a condition on the granting of an application for a conditional use permit to allow a dynamic sign for an existing automobile convenience facility requiring the dynamic sign to be located on a monument sign; and b) denying a variance to sign type to allow a dynamic sign on an existing pole sign, at 2448 Hennepin Ave, now recommends that said appeal be sent forward without recommendation.

Johnson moved to amend the report by deleting the language, "sent forward without recommendation" and inserting in lieu thereof, "granted and staff be directed to prepare findings for adoption." Seconded.

Adopted by unanimous consent.

Absent - Colvin Roy.

The report, as amended, was adopted 8/5/2011. Yeas, 9; Nays, 3 as follows:

Yeas - Tuthill, Quincy, Glidden, Hodges, Samuels, Reich, Hofstede, Lilligren, Johnson.

Nays - Goodman, Gordon, Schiff.

Absent - Colvin Roy.

Johnson resumed the chair.

Z&P - Your Committee, having under consideration the appeal filed by BKV Group, Inc., on behalf of 430 Oak Grove, LLC, from the decision of the Planning Commission, notwithstanding the recommendation of staff, denying applications for:

- a) a conditional use permit to allow 124 dwelling units;
- b) a conditional use permit to increase the maximum permitted height in the SH (Shoreland) Overlay District from 2.5 stories or 35 feet to 7 stories or 84 feet;
- c) a variance to reduce the front yard setback along Oak Grove St from 18 feet 8 inches to 15 feet for the proposed building wall and to allow bay window and stair encroachments and a glass entrance canopy;
- d) a variance to reduce the corner yard setback along Clifton Ave from the required 18 feet 8 inches to 15 feet for the building wall and to allow a decorative wood arcade and glass entrance canopy, and to reduce the corner yard setback from 8 feet to zero feet to allow a pocket park; and
- e) a site plan review application;

all for a new 7-story, 124 unit multi-family residential structure at 401, 409, 403, 343 Oak Grove St and 416 Clifton Ave, now recommends that said appeal be granted and that the related findings prepared by the Community Planning & Economic Development staff be adopted.

Adopted 8/5/2011. Yeas, 9; Nays, 2 as follows:

Yeas - Tuthill, Quincy, Glidden, Hodges, Samuels, Reich, Hofstede, Schiff, Johnson.

Nays - Gordon, Lilligren.

Declining to vote - Goodman.

Absent - Colvin Roy.

Z&P - Your Committee concurs in the recommendation of the Planning Commission granting the application of Jim Koontz with Garfield Properties, LLC, to vacate a public alley located between 2840 and 2900 Chowen Ave S (#1585), subject to retention of easement rights by Qwest, and to adopt the related findings prepared by the Department of Community Planning & Economic Development.

Your Committee further recommends passage of the accompanying resolution vacating said public alley.

Adopted 8/5/2011.

Absent - Colvin Roy.

Resolution 2011R-410, vacating the east-west alley in West End Addition 2nd Division, connecting Chowen Avenue South to the north-south alley (Vacation File No. 1585), was adopted 8/5/2011 by the City Council. A complete copy of this resolution is available for public inspection in the office of the City Clerk.

The following is the complete text of the unpublished summarized resolution.

RESOLUTION 2011R-410

By Schiff

Petition to vacate the east-west alley in West End Addition 2nd Division, connecting Chowen Avenue South to the north-south alley (Vacation File No. 1585).

Resolved by The City Council of The City of Minneapolis:

That the east-west alley in West End Addition 2nd Division, connecting Chowen Avenue South to the north-south alley is hereby vacated except that such vacation shall not affect the existing authority of Qwest, their successors and assigns, to enter upon that portion of the aforescribed alley which is described in regard to each of said corporations as follows, to wit:

Qwest, subject to an easement over the entire area to be vacated.

to operate, maintain, repair, alter, inspect or remove its above-described utility facilities and said easement right and authority is hereby expressly reserved to each of the above-named corporations, and no other person or corporation shall have the right to fill, excavate, erect buildings or other structures, plant trees or perform any act which would interfere with or obstruct access to said easement upon or within the above-described areas without first obtaining the written approval of the corporation(s) having utility facilities located within the area involved authorizing them to do so.

Adopted 8/5/2011.

Absent - Colvin Roy.

Z&P – Your Committee concurs in the recommendation of the Planning Commission in granting the petition of Eliot Architects, LLC, on behalf of Macedonia Baptist Church (BZZ-5168) to rezone the property at 3801 1st Ave S from C1 to the OR2 High-Density Office-Residence District to permit a place of assembly and adopting the related findings prepared by the Department of Community Planning & Economic Development.

Your Committee further recommends passage of the accompanying ordinance amending the Zoning Code.

Adopted 8/5/2011.

Absent - Colvin Roy.

Ordinance 2011-Or-072 amending Title 20, Chapter 521 of the Minneapolis Code of Ordinances relating to *Zoning Code: Zoning Districts and Maps Generally*, rezoning the property at 3801 1st Ave S to the OR2 District, was adopted 8/5/2011 by the City Council. A complete copy of this ordinance is available for public inspection in the office of the City Clerk.

The following is the complete text of the unpublished summarized ordinance.

ORDINANCE 2011-Or-072
By Schiff
1st & 2nd Readings: 8/5/2011

Amending Title 20, Chapter 521 of the Minneapolis Code of Ordinances relating to Zoning Code: Zoning Districts and Maps Generally.

The City Council of the City of Minneapolis do ordain as follows:

Section 1. That Section 521.30 of the above-entitled ordinance be amended by changing the zoning district for the following parcel of land, pursuant to MS 462.357:

That part of Lots 29 and 30, Block 3, NICOLLET PARK ADDITION TO MINNEAPOLIS, located in Minneapolis, recorded in the office of the County Recorder, Hennepin County, Minnesota (3801 1st Ave S - Plate 31) to the OR2 District.

Adopted 8/5/2011.

Absent - Colvin Roy.

Z&P – Your Committee concurs in the recommendation of the Planning Commission in granting the petition of Eliot Architects, LLC, on behalf of Macedonia Baptist Church (BZZ-5168) to rezone the properties at 3809 and 3813 1st Ave S from R1A to the OR2 High-Density Office-Residence District to permit a place of assembly and adopting the related findings prepared by the Department of Community Planning & Economic Development.

Your Committee further recommends passage of the accompanying ordinance amending the Zoning Code.

Adopted 8/5/2011.

Absent - Colvin Roy.

Ordinance 2011-Or-073 amending Title 20, Chapter 521 of the Minneapolis Code of Ordinances relating to *Zoning Code: Zoning Districts and Maps Generally*, rezoning the properties at 3809 and 3813 1st Ave S to the OR2 District, was adopted 8/5/2011 by the City Council. A complete copy of this ordinance is available for public inspection in the office of the City Clerk.

The following is the complete text of the unpublished summarized ordinance.

ORDINANCE 2011-Or-073
By Schiff
1st & 2nd Readings: 8/5/2011

Amending Title 20, Chapter 521 of the Minneapolis Code of Ordinances relating to Zoning Code: Zoning Districts and Maps Generally.

The City Council of the City of Minneapolis do ordain as follows:

Section 1. That Section 521.30 of the above-entitled ordinance be amended by changing the zoning district for the following parcel of land, pursuant to MS 462.357:

That part of Lots 27 and 28, Block 3, NICOLLET PARK ADDITION TO MINNEAPOLIS, located in Minneapolis, recorded in the office of the County Recorder, Hennepin County, Minnesota (3809 and 3813 1st Ave S - Plate 31) to the OR2 District.

Adopted 8/5/2011.

Absent - Colvin Roy.

MOTION

Hodges moved that the regular payrolls for all City employees under City Council jurisdiction for the month of September, 2011, be approved and ordered paid subject to audit by the Finance Officer.

Seconded.

Adopted 8/5/2011.

Absent - Colvin Roy.

RESOLUTIONS

Resolution 2011R-411, proclaiming August 23, 2011, as Steven's Square Community Organization's Block Patrol Day, was adopted 8/5/2011 by the City Council. A complete copy of this resolution is available for public inspection in the office of the City Clerk.

(Published 8/10/2011)

The following is the complete text of the unpublished summarized resolution.

RESOLUTION 2011R-411

**By Lilligren, Reich, Gordon, Hofstede, Johnson, Samuels, Goodman,
Glidden, Schiff, Tuthill, Quincy, Colvin Roy and Hodges**

Proclaiming August 23, 2011, as Steven's Square Community Organization's Block Patrol Day.

Whereas, the Stevens Square Community Organization's Block Patrol is a campaign designed to heighten crime prevention awareness; generate support and participation in local anti crime programs; strengthen neighborhood spirit and police community partnerships and send a message to criminals to let them know that neighborhoods are organized and are fighting back; and

Whereas, The Stevens Square Community Organization's Block Patrol is a community endeavor involving active neighborhood residents and others that encourages citizens of our community to become involved in their neighborhood; and

Whereas, The Stevens Square Community Organizations Block Patrol is the oldest and longest serving citizens walking patrol in the city of Minneapolis. The Block Patrol has been active for 20 years as of August 2011; and

Whereas, The Stevens Square Community Organization Block Patrol has performed more than 20,000 hours of volunteer service since its inception; and

Whereas, The City of Minneapolis hereby recognizes the work Block Patrol has contributed to the lowering of neighborhood livability crime issues;

Now, Therefore, Be It Resolved by The City Council of The City of Minneapolis:

That the City Council does hereby proclaim August 23rd, as *Stevens Square Community Organization's Block Patrol Day*; and furthermore encourages every citizen of Minneapolis to continue to help make our community a safer and more enjoyable place to live, work and play.

Adopted 8/5/2011.

Absent - Colvin Roy.

Approved by Mayor Rybak 8/8/2011.

Resolution 2011R-412, honoring Community Gardening Day in Minneapolis, was adopted 8/5/2011 by the City Council. A complete copy of this resolution is available for public inspection in the office of the City Clerk.

The following is the complete text of the unpublished summarized resolution.

RESOLUTION 2011R-412

**By Gordon, Reich, Hofstede, Johnson, Samuels, Lilligren, Goodman,
Glidden, Schiff, Tuthill, Quincy, Colvin Roy and Hodges**

Honoring Community Gardening Day in Minneapolis.

Whereas, there are more than 160 community gardens in Minneapolis, in all 13 wards, providing opportunities for more than four thousand community gardeners; and

Whereas, community gardens add beauty to urban neighborhoods and provide much needed green space in high density areas; and

Whereas, community gardens build community by crossing cultural and socio-economic divides by providing cross-cultural and intergenerational opportunities for neighbors to meet and work together; and

Whereas, Minneapolis' community gardens reflect the cultural and ethnic diversity of the city, including gardeners who speak English, Spanish, Hmong, Somali, and Korean; and

Whereas, community gardens reduce the urban heat island effect and filter rainwater, helping to keep our rivers, lakes, and groundwater clean; and

Whereas, community gardens provide access to nutritionally rich and culturally appropriate foods that may otherwise be unavailable to inner-city residents; and

Whereas, community gardens provide horticultural therapy and exercise, helping to draw people out of their homes and get active; and

Whereas, community gardens combat inactivity, unhealthy eating habits and social isolation, thereby reducing risk of diabetes and obesity; and

Whereas, community gardens educate neighbors about land stewardship, providing an informal classroom for children and adults to learn skills caring for the natural environment; and

Whereas, community gardens enhance crime prevention efforts and improve property values; and

Whereas, community gardens provide a more livable environment in Minneapolis and present a positive local image to a community's residents and visitors; and

Whereas, the City of Minneapolis is proud to support community gardening by providing over 2400 cubic yards of compost via Public Works' Solid Waste and Recycling Department over the last four years and by providing access to water through the Public Works' Water Treatment and Distribution Services Division; and

Whereas, the Minneapolis Planning Division is currently working on zoning code amendments to provide more flexibility and remove regulatory barriers that will better support the establishment and continued success of community gardening in the urban environment; and

Whereas, the Minneapolis Department of Health and Family Support continues to support the Local Food Resource Hubs Network to link residents, gardeners and entrepreneurs with the seeds, seedlings, tools, education and connections needed to build food growing, preservation, distribution and composting skills; and

Whereas, Community Garden Day will take place in the Twin Cities Metro area on August 6th, giving residents an opportunity to learn about community gardening and visit gardens in their area;

Now, Therefore, Be It Resolved by The City Council of The City of Minneapolis:

That the City of Minneapolis recognizes the role community gardens play in making our city more livable, attractive, resilient and healthy.

Be It Further Resolved that the City Council of the City of Minneapolis declares August 6th, 2011 as Community Garden Day in the City of Minneapolis.

Adopted 8/5/2011.

Absent - Colvin Roy.

UNFINISHED BUSINESS

RE&E - Your Committee, having under consideration the Rental Dwelling License held by Brad & Scott Such for the property located at 442 Pierce St NE, and a hearing having been held before an administrative hearing officer who issued Findings of Fact, Conclusions and a Recommendation that the rental dwelling license be revoked, now recommends that the license recommendation be referred to staff, contingent upon the administration citation fine being paid by the licensee before the City Council Meeting.

Hofstede moved that the report be deleted. Seconded.

Adopted upon a voice vote 8/5/2011.

Absent - Colvin Roy.

City Council action of 7/22/2011 postponed consideration of the Regulatory, Energy and Environment Committee report relating to proposed ordinance amending regulations applicable to outdoor areas and establishing capacity limits and specific hours of use to 12/9/2011.

Pursuant to notice, Hodges moved to introduce the subject matter of an ordinance amending Title 17, Chapter 455 of the Minneapolis Code of Ordinances relating to *Streets and Sidewalks: Block Events*, for first reading and referral to the Transportation & Public Works Committee (amending Section 455.25 to include a zero-waste policy for large block events). Seconded.

Adopted upon a voice vote 8/5/2011.

Absent - Colvin Roy.

Pursuant to notice, Samuels moved to introduce the subject matter of an ordinance amending Title 18, Chapter 478 of the Minneapolis Code of Ordinances relating to *Traffic Code: Parking, Stopping and Standing*, for first reading & referral to the Public Safety, Civil Rights & Health Committee (updating vehicle improvement processes to be consistent with state statutes). Seconded.

Adopted upon a voice vote 8/5/2011.

Absent - Colvin Roy.

NEW BUSINESS

Glidden gave notice of intent to introduce at the next regular meeting of the City Council the subject matter of ordinances amending Title 20 of the Minneapolis Code of Ordinances relating to *Zoning Code* (to revise regulations for secondhand goods stores), as follows:

- a) Amending Chapter 520 relating to *Introductory Provisions*;
- b) Amending Chapter 536 relating to *Specific Development Standards*;
- c) Amending Chapter 537 relating to *Accessory Uses and Structures*;
- d) Amending Chapter 548 relating to *Commercial Districts*; and
- e) Amending Chapter 549 relating to *Downtown Districts*.

Lilligren moved to adjourn to Room 315 City Hall to consider the matter of City of Minneapolis v. Minneapolis Police Relief Association and Minneapolis Firefighters' Relief Association. Seconded.

Adopted upon a voice vote 8/5/2011.

Absent - Colvin Roy.

Room 315 City Hall

Minneapolis, Minnesota

August 5, 2011 - 10:46 a.m.

The Council met pursuant to adjournment.

President Johnson in the Chair.

Present - Tuthill, Quincy, Glidden, Goodman, Hodges, Gordon, Reich, Schiff, Lilligren, President Johnson.

Absent - Colvin Roy, Samuels, Hofstede.

Segal stated that the meeting may be closed for the purpose of discussing attorney-client privileged matters involving the matter of City of Minneapolis v. Minneapolis Police Relief Association and Minneapolis Firefighters' Relief Association.

Lilligren moved that the meeting be closed at 10:47 a.m. Seconded.

Adopted upon a voice vote.

Absent - Colvin Roy, Hofstede.

Present - Tuthill, Quincy, Glidden, Goodman, Hodges, Samuels, Gordon, Reich, Hofstede (in at 10:49 a.m.), Schiff, Lilligren (out 11:00-11:09 a.m.), President Johnson.

Absent - Colvin Roy.

Also Present – Susan Segal, City Attorney; Peter Ginder, Deputy City Attorney; Jeremy Hanson Willis, Mayor's Chief of Staff (in at 11:13 a.m.); Peter Wagenius, Mayor's Office (in at 11:08 a.m.); Kevin Carpenter, Chief Financial Officer (in at 11:13 a.m.); Casey Joe Carl, City Clerk; and Irene Kasper, City Clerk's Office.

Segal summarized the City of Minneapolis v. Minneapolis Firefighters' Relief Association lawsuit from 10:47-11:02 a.m. and the City of Minneapolis v. Minneapolis Police Relief Association lawsuit from 11:02-11:26 a.m.

Lilligren moved that the meeting be opened 11:09 a.m. Seconded.

Adopted upon a voice vote.

Absent - Colvin Roy.

Lilligren moved to suspend City Council Rule 1 relating to staff present at a closed Council meeting so as to allow another representative of Mayor R.T. Rybak's office, Peter Wagenius, to attend. Seconded.

Adopted upon a voice vote.

Absent - Colvin Roy.

Lilligren moved that the meeting be closed at 11:09 a.m.. Seconded.

Adopted upon a voice vote.

Absent - Colvin Roy.

Lilligren moved that the meeting be opened at 11:25 a.m. Seconded.

Adopted upon a voice vote.

Absent - Colvin Roy.

Glidden moved approval of the July 18, 2011 Term Sheet and Points of Agreement between the Minneapolis Firefighters' Relief Association (MFRA) and the City of Minneapolis, which was approved by the MFRA Board of Directors on July 22, 2011. Seconded.

Adopted 8/5/2011.

Declining to vote - Hodges.

Absent - Colvin Roy.

AUGUST 5, 2011

The adjourned session of the City Council meeting was tape recorded with the tape on file in the office of the City Clerk.

Lilligren moved to adjourn. Seconded.
Adopted upon a voice vote.
Absent - Colvin Roy.

Casey Joe Carl,
City Clerk.

Unofficial Posting: 8/10/2011
Official Posting: 8/12/2011